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March 18, 2008

VIA EMAIL AND HAND DELIVERY

Mr. Mike Monasmith
Project Manager, Siting Division
California Energy Commission
1516 Ninth Street MS-15
Sacramento, CA 95814

Re: Carlsbad Energy Center Project (07-AFC-6)
Data Responses, Set 2 (#76-112) to Staff's Data Requests

Dear Mr. Monasmith:

Applicant Carlsbad Energy Center LLC submits the enclosed requisite copies of its responses to the California Energy Commission Staff's Data Requests, Set 2 (#76 through 112) for the proposed Carlsbad Energy Center Project. Copies of these responses are being sent to all parties identified on the current proof of service list (see attached).

Should you have any questions regarding this submittal, please contact me at (916) 447-0700.

Respectfully submitted,

Kimberly Hellwig

KJH:kjh
Enclosures
cc: See Attached Service List

Oregon
Washington
California
Utah
Idaho
Colorado
Minnesota

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA

Application for Certification for the ***CARLSBAD ENERGY CENTER PROJECT***	**Docket No. 07-AFC-6** **PROOF OF SERVICE** **(As of 02/05/2008)**

DECLARATION OF SERVICE

I, Elizabeth Hecox, declare that on March 18, 2008, I deposited in the United States mail at Sacramento, California with first-class postage thereon fully paid and addressed to those identified below ***OR*** transmitted via electronic mail consistent with the requirements of the California Code of Regulations, Title 20, sections 1209, 1209.5, and 1210 the following documents:

CARLSBAD ENERGY CENTER LLC'S RESPONSES TO CALIFORNIA ENERGY COMMISSION STAFF'S DATA REQUESTS, SET 2 (#76-112)

CALIFORNIA ENERGY COMMISSION
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I declare under penalty of perjury that the foregoing is true and correct.

Elizabeth Hecox

Elizabeth Hecox

Carlsbad Energy Center Project

(07-AFC-6)

Data Responses, Set 2

(Response to Data Requests 76 though 112)

Submitted to

California Energy Commission

Submitted by

Carlsbad Energy Center LLC

March 2008

With Assistance from

CH2MHILL
2485 Natomas Park Drive
Suite 600
Sacramento, CA 95833

Shaw™ Stone & Webster, Inc.

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Introduction

Attached are Carlsbad Energy Center LLC's (Applicant) responses to the California Energy Commission (CEC) staff's second round of data requests numbered 76 through 112 for Carlsbad Energy Center Project (CECP) (07-AFC-6). The CEC staff served these data requests on February 28, 2008, as part of the discovery process for the CECP. The responses are grouped by individual discipline or topic area. Within each discipline area, the responses are presented in the same order as the CEC staff presented them and are keyed to the Data Request numbers (76 through 112). New or revised graphics or tables are numbered in reference to the Data Request number. For example, the first table used in response to Data Request 15 would be numbered Table DR15-1. The first figure used in response to Data Request 15 would be Figure DR15-1, and so on.

Additional tables, figures, or documents submitted in response to a data request (supporting data, stand-alone documents such as plans, folding graphics, etc.) are found at the end of a discipline-specific section and are not sequentially page-numbered consistently with the remainder of the document, though they may have their own internal page numbering system.

The Applicant looks forward to working cooperatively with CEC staff as the CECP proceeds through the siting process. We trust that these responses address the staff's questions and remain available to have any additional dialogue the staff may require.

Air Quality (76 – 91)

Background: Operations Mitigation – Emission Reductions

The applicant's response to first round Data Request #6 did not provide appropriate documentation to back up their assertions relating to a realistic emission baseline for the existing Encina Power Station (EPS) boiler Units 1 through 3. The applicant indicated that these three units, which will retire if the proposed project is built, will have increased use, above current use, if the proposed project is not built; and that increased use should be factored into the determination of appropriate baseline emissions. However, the Commission's Scenario Analysis of California's Electricity System performed for the 2007 IEPR shows significant decreases in the forecasted use of aged Encina (Carlsbad) and South Bay (Chula Vista) power plant boilers located in San Diego Gas & Electric territory. The scenario analysis documents are located at http://www.energy.ca.gov/2007_energypolicy/documents/index.html, and the generation forecast results for the SDG&E territory boilers are provided in the spreadsheet appendices http://www.energy.ca.gov/2007publications/CEC-200-2007-010/appendices/ to the scenario analysis. Staff needs additional information to determine an appropriate emission baseline for EPS Units 1 through 3.

76. Please provide the annual capacity factor, based on fuel consumption, separately for EPS boiler Units 1, 2, and 3 for the years 2002 through 2007.

Response: Table DR76-1 below summarizes the annual fuel use and corresponding annual fuel use factors for EPS Units 1, 2, and 3 for the period from 2002 through 2007. The annual fuel use is based on data included in annual emission summary reports generated by the San Diego Air Pollution Control District for the EPS. The fuel use factor was calculated based on the following heat input ratings for each of the existing units:

- Unit 1: 1013 MMBtu/hr
- Unit 2: 1013 MMBtu/hr
- Unit 3: 1128 MMBtu/hr

TABLE DR76-1
Annual Fuel Use and Fuel Use Factors for EPS Units 1, 2, and 3
2002 to 2007

Year	Unit 1	Unit 2	Unit 3
		Annual Fuel Use (MMBtu)	
2002	1,671,159	2,132,800	2,186,577
2003	1,392,559	1,718,000	2,446,684
2004	1,999,937	2,551,753	3,964,604
2005	1,786,576	1,939,233	2,125,785
2006	594,587	1,117,135	1,356,257
2007	1,504,657	1,015,640	1,829,975
		Annual Fuel Use Factor	
2002	18.8%	24.0%	22.1%
2003	15.7%	19.4%	24.8%
2004	22.5%	28.8%	40.1%
2005	20.1%	21.9%	21.5%
2006	6.7%	12.6%	13.7%
2007	17.0%	11.4%	18.5%

Data Request

77. Please provide the annual emissions (NOx, CO, PM10, ROG, SOx) for EPS boiler Units 1, 2, and 3 for 2007.

Response: The 2007 annual emissions for NOx, CO, PM_{10}, VOC, and SOx for EPS Units 1, 2, and 3 are summarized on the enclosed Table DR-77-1. Since the final 2007 SDAPCD annual emission report for the EPS has not yet been prepared, the enclosed emission estimates are based on 2007 fuel use and emission factors from the 2006 SDAPCD annual emission report for the EPS.

Table DR-77-1
2007 Emission Estimate Units 1, 2, and 3
Encina Power Station
Carlsbad Energy Center Project
Carlsbad, CA

Unit	Fuel Use (mmscf nat. gas.) (1000 gals oil)	Emission Factors (lbs/mmscf nat. gas, lbs/1000 gals oil)* NOx	CO	VOC	SOx	PM10	Emissions (lbs/year) NOx	CO	VOC	SOx	PM10
Unit 1 - nat. gas	1473.7	11.6	41.7	5.5	0.6	10.8	17,095	61,453	8,105	884	15,916
Unit 1 - oil	19.7	32	5	0.93	71	10	631	99	18	1,399	197
Subtotal (lbs) =							17,726	61,552	8,124	2,284	16,113
Subtotal (tons) =							8.9	30.8	4.1	1.1	8.1
Unit 2 - nat. gas	994.0	11.6	126	5.5	0.6	12.4	11,530	125,243	5,467	596	12,325
Unit 2 - oil	18.4	32	5	0.93	71	10	590	92	17	1,308	184
Subtotal (lbs) =							12,120	125,335	5,484	1,905	12,510
Subtotal (tons) =							6.1	62.7	2.7	1.0	6.3
Unit 3 - nat. gas	1792.8	11.6	43.4	5.5	0.6	11.1	20,796	77,808	9,860	1,076	19,900
Unit 3 - oil	20.7	32	5	0.93	71	10	664	104	19	1,473	207
Subtotal (lbs) =							21,460	77,911	9,880	2,549	20,108
Subtotal (tons) =							10.7	39.0	4.9	1.3	10.1
Total (lbs) =							51,306	264,798	23,487	6,737	48,730
Total (tons) =							25.7	132.4	11.7	3.4	24.4

Notes:
* Based on emission factors shown in 2006 SDAPCD annual emission report for Encina Power Plant.

Data Request

78. Please provide the net MW-hrs of generation for EPS boiler Units 1, 2, and 3 for 2007.

Response: The total net MW-hrs of generation for EPS Units 1, 2, and 3 during 2007 were 61,301, 43,010, and 85,270 MW-hrs, respectively.

Data Request

79. Please provide information documenting a reputable source for the assertion that the operations of these units would increase over time if the proposed project were not built. Reputable sources would include site specific energy demand forecasts from California public agencies such as the California Independent System Operator (CAISO) or the California Public Utilities Commission (CPUC).

Response: The staff's questions appear to arise from data contained in the 2007 IEPR analysis. In particular, the 2007 IEPR analysis shows the following for steam generating units within the SDG&E service territory (shown in the IEPR as "Existing/Named Gas –ST"):

2009 1491 GWh
2010 974 GWh
2011 940 GWh
2012 1112 GWh
2013 1149 GWh

To the best we can determine, this category includes only the Encina and South Bay Power Stations. Since the first scenario year presented in the 2007 IEPR is 2009, we presume that the staff is referring to the drop in steam unit generation between 2009 and 2010 in reaching its conclusion that generation from Encina is decreasing over time. However, this drop is the result of an *assumption* that the South Bay units will be retired after 2009, as shown in "Portfolio Analysis And its Potential Application To Utility Long-Term Planning" (http://www.energy.ca.gov/2007publications/CEC-200-2007-012/CEC-200-2007-012-SF.PDF). In Chapter 4 of this document (p. 45), one of the assumptions in the scenarios for the SDG&E service territory is described as follows:

"The South Bay Power Plant will retire at the end of 2009. The extent to which other older generation can be retired varies under each of the scenarios."

Thus, a more correct assessment of the trend in generation at Encina would be a comparison of generation during the last few years with the IEPR forecasts beginning in 2010, when the Encina Power Station is assumed to be the only steam facility in operation in the SDG&E service territory:

2005: 2022 GWh
2006: 1389 GWh
2007: 790 GWh
2008: (no data/forecast available)

2009: (no data/forecast available)
2010: 974 GWh
2011: 940 GWh
2012: 1112 GWh

Additionally, CEC forecasts a continuous growth in the demand for electricity in the San Diego region of approximately 1.5% annually during the years 2008-2016 (see pages 121 and 122 in the "California Energy Demand 2008-2018 Staff Revised Forecast Report" located at: http://www.energy.ca.gov/2007publications/CEC-200-2007-015/CEC-200-2007-015-SF2.PDF).

The above data suggest that generation at the Encina Power station is likely to increase, rather than decrease, over the next several years.

Background: Construction – Worst Case Impacts

The responses to first round Data Requests 10 and 11 did not provide information that demonstrated the worst-case, short-term construction impacts would occur during the activities and period (7 am to 4 pm) modeled. The applicant has noted the potential for a 24 hr/day construction schedule, but has not quantified associated potential emissions or impacts. During the January 24, 2008 data response and issues resolution workshop the applicant indicated a willingness to limit the activities that could occur during any necessary 24-hour construction periods. Additionally, during the data response workshop, the city of Carlsbad indicated that their noise regulations do not allow 24-hour construction activities. Staff needs more information to be able to assess potential worst-case impacts from 24-hour construction activities.

Data Request

80. Please describe the types of construction activities for which the applicant would be willing to stipulate that it could forgo a 24 hr/day schedule. This could be provided as a list of specified construction activities or specific heavy equipment activity, or can be provided as an applicant proposed condition of certification.

Response: As discussed in the Applicant's Data Response 10 (Data Response, Set 1A, December 2007), the need to change from the construction schedule of 9 hours per day/5 days per week to a longer period of up to 24 hours per day/7 days per week will depend on situations that arise during the construction/commissioning of the CECP. There could be three or four of these construction recovery periods during the construction/commissioning of the CECP, with each of these periods lasting up to two weeks. During these periods, the amount of construction activity and corresponding emissions could nearly double on a daily basis. However, this type of construction recovery is not expected to occur during the early part of the CECP construction schedule (Months 1 through 3), which is the peak period for construction activities/construction emissions.

Situations that arise during the construction/commissioning of the CECP that could potentially require longer construction periods of up to 24 hours per day/7 days per

week, could include, but are not limited to: large concrete pours that need to be completed during a single continuous period; to make up for construction delays due to weather or other unforeseen events; the setting/installation of a large component, such as a turbine or generator set; or during commissioning and testing of the units.

The construction activities associated with peak construction emissions, and which would occur during Months 1 through 3 include removal of the lateral soil berms, site preparation, and site grading operations all of which involve large earth moving equipment. The Applicant is willing to stipulate that Project related removal of the lateral soil berms, site preparation, and site grading operations will occur between 7 am and 4 pm and not on a 24 hour per day/7 day per week basis, unless there is an emergency situation that 24 hour per day/7 day per week activities are necessary to protect the public, the environment, or key public infrastructure resources in the vicinity of the CECP site.

Data Request

81. Please provide an estimate of the maximum hourly and 4 pm to 7 am period emissions associated with the requested 24-hour construction activities.

Response: As discussed in Response Number 80, it is expected that there will be only a few times during the construction phase of the proposed project when 24-hr construction activities will be required. Because these events will be so infrequent and needed only for construction recovery periods, there is insufficient information currently available to estimate maximum hourly emissions associated with these 24-hour construction events. However, the emissions during these 24-hr construction events will be significantly lower than the maximum hourly emissions analyzed in the construction impact modeling analysis included as part of the AFC for the proposed project.

Data Request

82. Please provide a modeling analysis of the maximum short-term (1, 8, and 24-hour) criteria pollutant (excepting SOx) impacts from the applicant's proposed 24-hour construction activities.

Response: As discussed in Response Number 81, there is insufficient information available to calculate emissions during these possible 24-hr construction events. Consequently, it is not possible to perform a modeling analysis for these events; however, as noted above, the emissions during these 24-hr construction events will be significantly lower than the maximum hourly emissions analyzed in the construction impact modeling analysis included as part of the AFC for the proposed project**.**

Data Request

83. Please provide confirmation from the city of Carlsbad that the proposed 24-hour construction activities would be allowed under city of Carlsbad noise ordinances.

Response: In a letter dated December 20, 2007, the City provided Data Requests for which the Applicant docketed a City Data Response, Set 1A with the CEC in February 2008. City Data Request 55 (Noise) included a statement in the background section for its Data Request 55 that a 24/7 work schedule "…does not conform to City's regulations…"

In its response to Data Request 55 from the City, the Applicant provided the following analysis and interpretation of the City's Noise Ordinance, which included the following excerpt from the City's Noise Ordinance:

8.48.010 Limitation of hours for construction.

The erection, demolition, alteration, or repair of any building or structure or the grading or excavation of land in such manner as to create disturbing, excessive or offensive noise during the following hours, except as hereinafter provided, is a violation of this code:
(1) After sunset on any day, and before seven a.m., Monday through Friday, and before eight a.m. on Saturday;
(2) All day on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day. (Ord. 3109 § 1 (part), 1978)

8.48.020 Exceptions.

(1) *[Does not apply to the CECP – but provided for completeness]* An owner/occupant or resident/tenant of residential property may engage in a home improvement or home construction project involving the erection, demolition, alteration or repair of a building or structure or the grading or excavation of land on any weekday between the hours of seven a.m. and sunset and on weekends between the hours of eight a.m. and sunset, provided such project is for the benefit of said residential property and is personally carried out by said owner/occupant or resident/tenant.
(2) The city manager may grant exceptions to Section 8.48.010 by issuing a permit in the following circumstances:
(A) When emergency repairs are required to protect the health and safety of any member of the community;
(B) *[This exception would apply for the CECP]* In nonresidential zones, provided there are no inhabited dwellings within one thousand feet of the building or structure being erected, demolished, altered or repaired or the exterior boundaries of the site being graded or excavated. (Ord. 3109 § 1 (part), 1978)

Background: Construction and Operations Modeling

The modeling analysis appears to use incorrect emission source elevations for both the construction and operating modeling analysis. The elevations used have not been adjusted for the man made depth of the project area, so the emission source elevations have been set 14 to 17 feet too high. Additionally there are other modeling issues that need to be revised/corrected to allow a complete staff analysis including: 1) correcting downwash parameters; 2) refining the construction NOx modeling; 3) completing the facility's cumulative NOx impact modeling analysis; and 4) correcting the gas turbine full load PM10 modeling analysis emission basis to 9.5 lbs/hour.

Data Request

84. Please correct the emission source elevations used for the construction and operations modeling, including confirming and revising as necessary the source elevations for the structures and berms used for building downwash.

Response: For the requested revised construction modeling analysis, the site elevation has been corrected to 30 feet above mean sea level based on the site plans submitted as part of the AFC for the proposed project. The previous construction modeling analysis used an incorrect site elevation of approximately 44 feet above mean sea level based on digital terrain data for the project area. This same correction will be incorporated in the revised operations modeling analysis, which will be performed in the near future.

Data Request

85. Please revise the downwash dimensions for the berm in order to model it as a set of "structures" that surround the project area. This request can be alternatively fulfilled by a letter or an e-mail from an USEPA air dispersion modeling specialist that states that downwash method used for the berm is adequate for sources with release points located both above and below the top berm height.

Response: For the requested revised construction modeling analysis, the beams are treated as a series of structures surrounding the project site. For the previous construction modeling analysis for the proposed project, the berms were treated as a plateau covering the project site. This same correction will be incorporated in the revised operations modeling analysis which will be performed in the near future.

Data Request

86. Please remodel the construction NOx emissions using the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) NOx Ozone Limiting Method/Plume Volume Molar Ratio Method (OLM/PVMRM) as originally requested in first round Data Request 12.

Response: As requested, a revised 1-hr average NO_2 construction modeling analysis was performed for the proposed project using the AERMOD model and the ozone limiting method. This analysis was performed using the corrections to the project site elevation and berms as discussed in Response Numbers 84 and 85. For the revised modeling analysis, the top ten modeled NO_2 1-hr average impacts for each of the three years analyzed were added to background ambient NO_2 levels for these specific hours/years and compared to the 1-hr state NO_2 standard. In addition, to ensure that there were no exceedances of the state 1-hr NO_2 standard during other hours in each of the three years analyzed, the tenth highest modeled 1-hr average NO_2 impact for each year was added to the top five highest measured background ambient NO_2 levels for each year and compared to the 1-hr state NO_2 standard. The results of this modeling analysis are summarized in the following tables (Tables DR86-1 and DR86-2). As shown in Tables DR86-1 and DR86-2, the maximum modeled impacts combined with ambient background levels are below the state 1-hr NO_2 standard.

TABLE DR86-1
Revised 1-Hour Average NO_2 Construction Modeling Impacts
Top Ten Modeled Impacts for Each Year

Rank	1-hr Average NO_2 Background ($\mu g/m^3$)	Modeled 1-hr NO_2 Impact ($\mu g/m^3$)	Total Impact ($\mu g/m^3$)	State 1-hour NO_2 Standard ($\mu g/m^3$)
		2003		
1	51	208	259	338
2	13	180	193	338
3	11	160	171	338
4	8	160	168	338
5	8	157	165	338
6	6	154	160	338
7	19	154	173	338
8	21	153	174	338
9	21	151	172	338
10	17	150	167	338
		2004		
1	13	191	204	338
2	9	182	191	338
3	15	158	173	338
4	11	156	167	338
5	Missing	155		338
6	Missing	154		338
7	21	154	175	338
8	8	153	161	338
9	6	152	158	338
10	11	150	161	338
		2005		
1	30	244	274	338
2	19	160	179	338
3	8	157	165	338
4	11	157	168	338
5	13	156	169	338
6	9	155	164	338
7	11	151	162	338
8	15	150	165	338
9	15	150	165	338
10	11	150	161	338

TABLE DR86-2
Revised 1-Hour Average NO_2 Construction Modeling Impacts
Top Five Background Levels for Each Year

Rank	1-hr Average NO_2 Background ($\mu g/m^3$)	Tenth Highest Modeled 1-hr NO_2 Impact ($\mu g/m^3$)	Total Impact ($\mu g/m^3$)	State 1-hour NO_2 Standard ($\mu g/m^3$)
		2003		
1	179	150	329	338
2	175	150	325	338
3	171	150	321	338
4	169	150	319	338
5	169	150	319	338
		2004		
1	186	150	336	338
2	182	150	332	338
3	171	150	321	338
4	162	150	312	338
5	152	150	302	338
		2005		
1	145	150	295	338
2	137	150	287	338
3	137	150	287	338
4	134	150	284	338
5	134	150	284	338

Data Request

87. Please provide a modeling analysis for facility cumulative NOx impacts to complete the response to first round Data Request 17.

Response: The requested cumulative NO_2 impact modeling analysis is not yet complete and will be submitted separately once complete.

Data Request

88. Please correct the annual NOx, PM10 and PM2.5 emission inputs in the construction modeling files to match the annual emission values provided in the AFC.

Response: As requested, a revised construction modeling analysis was performed using the correct annual emission levels for NOx, PM_{10}, and $PM_{2.5}$. The annual construction emissions shown on Tables 5.1E-2 and 5.1E1-19 of the AFC were used for this

analysis (i.e., 18.04 tons/year for NOx, 3.61 tons/year for PM_{10}, and 1.32 tons/year for PM2.5), along with the assumption that these emissions occur over 260 work days per year (to calculate the g/sec emission rate used by the model). In the previous construction modeling analysis performed for the proposed project, the above annual emissions were used with the incorrect assumption that these emissions occur over 240 work days per year. As with the revised 1-hr average NO_2 construction modeling analysis discussed under Response Number 87, this analysis was performed using the AERMOD model along with the corrections to the project site elevation and berms discussed in Response Numbers 84 and 85. As shown in Table DR88-1, the revised construction modeling impacts (shown in underline format) are lower then the previous modeled impacts (shown in strikethrough format).

TABLE DR88-1
Revised Annual Construction Modeling Impacts

Pollutant	Averaging Time	Maximum Modeled Impacts ($\mu g/m^3$)	Background ($\mu g/m^3$)	Total Impact ($\mu g/m^3$)	State Standard ($\mu g/m^3$)	Federal Standard ($\mu g/m^3$)
NO_2[a]	Annual	18 9	22.5	41 32	--	100
SO_2	Annual	0.03 0.01	10.5	11	--	80
PM_{10}[b]	Annual	5 2	28	33 30	20	--
$PM_{2.5}$[b]	Annual	2 0.9	14	16 14.9	12	15

Notes:

[a] ARM was applied for NO2 annual average calculation, using national default 0.75 ratio.

[b] PM10 and PM2.5 impacts shown are from fugitive dust as well as combustion sources. Annual average PM2.5/PM10 impact from combustion sources only is 0.5 µg/m3.

Data Request

89. Please correct the operations modeling to reflect the stipulated full load PM10 emission rate of 9.5 lbs/hour/gas turbine.

Response: As discussed in Response Number 87, the revised modeling is not yet complete. The requested revised gas turbine PM_{10} modeling analysis based on a PM_{10} emission rate of 9.5 lbs/hr will be included in the revised modeling.

Data Request

90. Please provide the revised construction and operation modeling (including initial commissioning and startup modeling) input and output files, in electronic format, that include all the modeling revisions/corrections requested in Data Requests 84 through 88 above.

Response: The modeling input and output files for the revised construction modeling are included in the enclosed compact disc.

Background: Local Direct Heat Impacts

The public (i.e., members of the Carlsbad community) has requested that the local heat impacts from the project's operation, specifically the fin fan coolers, be analyzed. To perform this analysis, staff will need additional information from the applicant about the fin fan coolers.

Data Request

91. Please provide the following information for the proposed project's two fin fan coolers:

a. Please confirm that the dimensions of the fin fan coolers that are provided in Table 5.13-2 of the AFC are correct.

Response: This is the latest information from the Original Equipment Manufacturers responsible for the performance of the power plant.

b. Please provide the air flow rate and heat rejection for the fin fan coolers when operating at full load. This should include the maximum heat rejection case, but additional ambient cases can be provided, if desired. Please note that staff will, at the very least, be modeling a high ambient temperature case as part of the determination of localized heat impacts.

Response: The following heat balance information could be used for the stated conditions:

Air Flow:

Flow/Fan	10,980,000	Cuft/Min
Inlet Temp	86	F which =
Inlet Press	14.7	Psia
Inlet Sp Vol	13.748	CuFt/Lb
Mass Flow	798,661	Lb/Min
Mass Flow	47,919,642	Lb/Hr/Total

Steam Flow	508,000	Lb/Hr
Press	17	Psia
Temp	219	F
Hin	1,086.00	Btu/Lb
Hout	187.66	Btu/Lb
Duty	456,354,488	Btu/Hr
Air Enth Rise	9.52	Btu/Lb
Air Temp Rise	39.68	F
Outlet Air Temp	126	F

c. Please describe the physical area for the exhaust release point(s)" of the fin fan coolers.

Response: For modeling purposes the entire top surface length x width area can be considered a discharge point. *During low load or colder weather operations, the rows can be expected to be turned off to maintain condenser backpressure.*

Hazardous Materials Management (92 – 95)

Background

Pages 1-13, 5.5-17, and 5.5.18 of the AFC provide a narrative discussion of the hazardous materials proposed for use at the power plant during operations. Table 5.5-2 lists the location and use of these proposed hazardous materials. If the project is certified by the Commission, the project owner will be limited to using only those hazardous materials, strengths, and amounts listed on this table. Therefore, staff needs the specific identity, amount, strength, and Chemical Abstract Service (CAS) number of all hazardous materials proposed for use.

Staff also needs to clarify the proposed hazardous materials transportation route and if any hazardous materials will be transported via rail.

Data Request

92. Please clarify if Table 5.5-2 represents all the hazardous materials to be used at the site. If there are others, please provide the specific identity, amount, strength, and CAS number of those hazardous materials.

Response: Table 5.5-2 of the AFC provides the expected hazardous materials and their quantity and strength (as applicable) that are anticipated to be used at the site to support the operations and maintenance of the CECP. Table 5.5-3 of the AFC provides the same list of hazardous materials with their respective CAS number (for those materials which have been assigned a CAS number) as well as quantity and strength (as applicable). Since Tables 5.5-2 and 5.5-3 provide the same list of hazardous materials, but Table 5.5-3 provides the CAS number for each of the materials, for the purpose of Data Request, CEC staff should refer to Table 5.5-3.

To the best knowledge of the Applicant, Tables 5.5-2 and 5.5-3 of the AFC provide a complete list of the hazardous materials that are anticipated to be used at the site to support operations and maintenance of the CECP.

Data Request

93. Please clarify if any alternative fuel will be used or stored on-site, or transported to the site during commissioning or operations other than the previously identified natural gas and 200 gallons of diesel fuel.

Response: As described in Section 2.0 – Project Description of the AFC, the CECP will use only natural gas to fire the two combined-cycle electrical generation units during commissioning and operations. No other fuel source for the combined-cycle units is contemplated now or in the future. The 200 gallons of diesel fuel is for the emergency fire water pump. No other alternative fuels will be used or stored onsite.

Data Request

94. With regard to the transportation of hazardous materials to the site, please provide an analysis of using the Avenida Encinas entrance off Cannon Road, rather than the Carlsbad Boulevard entrance.

Response: As discussed in Data Response 103 below, NRG/Cabrillo Power LLC/Carlsbad Energy Center LLC (the Applicant) has an easement over the SDG&E property adjacent to the Encina Power Station and the CECP site. The Applicant and SDG&E have a recorded easement agreement that allows the Applicant access to and across the SDG&E property. In 2003, when the Applicant sold the SDG&E property to SDG&E, the parties entered into an easement agreement, recorded with the San Diego County Recorder's Office ("the Agreement"). The Agreement granted to the Applicant "certain easements that are required to facilitate the operations" of the Applicant. SDG&E granted non-exclusive easements to the Applicant for water lines and fire safety tanks, drainage, and access. It was necessary to provide for access to the Applicant's land, because SDG&E's acquisition left parcels such as the proposed CECP site landlocked for all intents and purposes, with the BNSF railroad to the west, Agua Hedionda Lagoon to the north, Interstate 5 to the east, and the SDG&E property to the south. The access easement granted to the Applicant is "in, on, over, under, across and through the SDG&E Land for the benefit of the Plant Land [Applicant's property, e.g. parcels containing the Encina Generating Station ("EGS") and the proposed CECP site], for the purpose of vehicular and pedestrian access (i) to and from Plant Land from and to public streets . . ."Through the above easement, the Applicant has the right to across SDG&E property located east of the railroad tracks that is accessed from Avenida Encinas north of Cannon Road. As requested by this Data Request, the Applicant has evaluated the concept of transporting hazardous materials to the CECP site by using a route that has trucks transporting hazardous materials to the CECP site exiting I-5 at Cannon Road, turning right onto Avenida Encinas, and then entering and crossing SDG&E property that adjoins the CECP site on the south. This route suggested by CEC staff in this Data Request is different then the hazardous materials transportation route discussed in the AFC that has trucks transporting hazardous materials to the CECP site continuing on Cannon Road to Carlsbad Blvd, and on Carlsbad Blvd to the Encina Power Station's main entrance on Carlsbad Blvd.

As noted in Data Response 92 above, various hazardous materials will be used to support operations of the CECP. As shown on Table 5.5-2R, the majority of specific hazardous materials are delivered in small quantities due to their limited use and will be transported to the CECP site in consolidated truck loads. These small quantities of hazardous materials would be stored within existing support facilities at the Encina Power Station west of the railroad tracks as the CECP site does not include a warehouse or small quantity storage areas. In addition, such shipments may include hazardous materials that will be used to support the ongoing operations of the Encina Power Station as well as operations of the CECP. Since the transport of small quantities of hazardous materials in consolidated truck shipments will be stored on the existing Encina Power Station, west of the railroad tracks, the Applicant proposes that consolidated truck deliveries of small quantities hazardous

materials use Cannon Road to Carlsbad Blvd to the Encina Power Station main entrance.

In addition to the various small quantities of hazardous materials used to support operations of the CECP, as shown on Table 5.5-2 of the AFC, there are several hazardous materials, such as aqueous ammonia, that will be transported to CECP in bulk tankers and transferred to storage tanks at the CECP site or transferred into equipment at the CECP site. For such bulk shipments of hazardous materials to the CECP site, the Applicant is willing to access the CECP site from Avenida Encinas and cross the SDG&E property located east of the railroad tracks if this is determined by the CEC to be the preferred transportation route for bulk shipments of aqueous ammonia and other bulk hazardous materials shipments that will be used solely and directly at the CECP site. However, it is important to note the shipment of consolidated small quantity hazardous materials and bulk shipments of hazardous materials to the exiting Encina Power Station via Cannon Road to Carlsbad Blvd and then to the CECP site do not represent a hazard to the public, rather the use of Cannon Road to Avenida Encinas for bulk shipments is a professional preference of CEC staff and is not a requirement in response to a potential hazard to the public.

Data Request

95. Please clarify whether any hazardous materials would be delivered by rail.

Response: The Applicant does not expect that any hazardous materials will be delivered by rail to the CECP site during Project construction, operations or maintenance, unless a hazardous material is sealed in a piece of equipment or component by the manufacture or supplier. For example, a large transformer that contains mineral oil could potentially be delivered to the CECP site by rail during initial Project construction or during routine operations and maintenance of the CECP.

Socioeconomics (96 – 97)

Background

The applicant provided a 20-year financial projection for the City of Carlsbad in Round I Data Response 55. It appears that the applicant used a methodology for calculating the value of the property tax based on a projected value of capital construction. However, as a state-assessed property under the California Board of Equalization (BOE), the BOE uses an income approach after the second year of existence to value a power plant. Additionally, the proposed CECP is located in the Southern Carlsbad Coastal Redevelopment Area (SCCRA). Data Response 55 was silent in regards to the economic effect on the SCCRA.

Data Request

96. Please recalculate the proposed economic impacts to the City using the Appropriate BOE methodology.

Response: As previously provided in the Applicant's Data Response to the City's Data Request 56 and as shown on page 5.10-22 of the Socioeconomics section of the AFC, CECP is expected to generate between $3,564,610 and $4,583,070 in property taxes annually. This value is derived on the basis of the capital cost of the CECP ($350M to $450M) and the parcel's property tax rate of 1.0185 percent. During the 20 year period, the property tax revenues generated will be between $71.3 million and $91.7 million. These property tax revenues are in constant 2007 dollars and, therefore, do not take inflation or changes in the property or its value into account.

The California Board of Equalization (BOE) uses the following methods to assess property values (Reisinger 2008 – see Record of Conversation as Attachment DR96-1)

1) For the first several of years after the facility becomes operational, the BOE uses replacement costs and depreciation costs as indicators of the value of the property.

2) After the facility has been operating for several years, the BOE will use the income-generating analysis indicator to calculate the value of the property.

Or the BOE may use a percentage of 1) and 2) to come up with a value. As the facility gets older, the BOE will weigh 2) more heavily.

Assuming the property tax rate assessed on CECP remains at the parcel's property tax rate of 1.0185 percent and that the value of the facility is assessed on the basis of BOE income approach methodology after the second year, the property tax revenues that will accrue to San Diego County during the 20 year period is estimated to be between $76.5 million and $78.5 million. These property tax revenues assume the value of the plant is based on the income generated by the plant. Additionally, this estimate assumes a discount factor that is based on a capitalization rate of 7 percent. The capitalization and the discount rates actually used will depend on whatever value is being used the BOE in any given year. However, whatever the value of the

assumed capitalization rate, the estimate developed under this method takes inflation into account.

The actual property taxes assessed on the CECP will ultimately depend on the information provided to the BOE by the County Assessor's Office (Reisinger, 2008).

Furthermore, since the CECP will operate under a capacity-based contract (sometimes referred to as a tolled plant), the income stream will be more stable and less subject to volatility unlike income streams from merchant plants. The only time that the income stream would show any volatility would be if there were significant operational issues affecting the available capacity of the units– something which, though difficult to anticipate is nonetheless not expected in this case. Finally, actual property tax revenues assessed will depend on what is considered to be income and how that income is calculated by the BOE.

Data Request

97. Please provide a 20-year economic analysis on the impacts to the SCCRA.

Response: Since the breakdown of the property tax revenues varies by Assessor's Parcel Number (APN), the portion of the property taxes that will go to the City will vary (De Jesus, 2008 – see Record of Conversation as Attachment DR97-1). Additionally, since the formula used by the City and County to allocate the property taxes to the various entities including the SCCRA is complex, compiling the proportion of the CECP property taxes that will go directly to the City is in progress. However, based upon the attached ROC, a 20-year economic analysis on the impacts to the SCCRA has not been provided, but the applicant will continue to work with the County to compile this information and provide it to the CEC.

ATTACHMENT DR96-1

Record of Conversation

CH2MHILL TELEPHONE CONVERSATION RECORD

Call To: Dick Reisinger
Leader
Electric Generation Facility Group
450 N Street
Sacramento, CA 95814

Phone No.: 916-324-2803 **Date:** March 13, 2008

Call From: Fatuma Yusuf **Time:** 11:20 AM

Message Taken By: Fatuma Yusuf

Subject: Property tax valuation

I called and spoke with Dick Reisinger about the method used to assess property tax revenues on power generating facilities. I had previously talked to Dick about the methods used by the BOE to asses property values, i.e.,

1). for the 1st couple of years after the facility becomes operational, the BOE uses replacement costs and depreciation costs as indicators of the value of the property.

2). after the facility has been operating for a few years, the BOE will use the income-generating analysis indicator to come up with the value of the property.

Or the BOE may use a % of (1) and (2) to come up with a value. As the facility gets older, the BOE will weigh (2) more heavily.

Dick confirmed that these are still the methods used by the BOE.

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ATTACHMENT DR97-1

Record of Conversation

CH2MHILL TELEPHONE CONVERSATION RECORD

Call To:	Nanette De Jesus San Diego County		Assessor's Office
Phone No.:	619-531-5788	**Date:**	March 14, 2008
Call From:	Fatuma Yusuf	**Time:**	10:00 AM
Message Taken By:	Fatuma Yusuf		

Subject: Allocation of property tax revenues to SCCRA

Nanette De Jesus called me in response to the message I left for Perla earlier this morning. Perla was the contact given to me by the Conrad at the City of Carlsbad Finance Dept yesterday.

Nanette informed that that the APN 210-01-010-43 was a state (BOE) assessed parcel for property tax purposes. She also confirmed that the parcel is in the SCCRA. She indicated that she would need more time to help me with the issue of figuring out how much of the property tax revenues collected would go to the SCCRA. She indicated that she may have time to help out with this next week.

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Traffic and Transportation (98 – 103)

Background

The AFC page 5.12-13 states only one train per day, at most, uses the tracks west of the CECP. However, staff has learned that Amtrak runs at least 12 roundtrips per day on these tracks. Additionally, staff learned that the Coaster runs on these tracks during weekday peak and midday periods, Friday evening, and Saturdays. Furthermore, the Coaster runs special evening service when the San Diego Padres baseball team play Monday – Thursday evening home games. Staff also found that Burlington Northern & Sante Fe (BNSF) sometimes runs freight trains at night on the track west of the CECP, mostly at night.

Data Request

98. Please explain how the conclusion "one train per day at most" was reached.

Response: Table 2.2-5a has this information for expected deliveries. This will work out to be one train per day during the busy times.

Data Request

99. Please provide the number of daily trains that run on these tracks, including all BNSF freight trains, Amtrak trains, and Coaster trains.

Response: Amtrak currently has up to 26 total trips, Coaster has up to 22 trips maximum and the BNSF freight is variable but could be managed with the introduction of the construction needs.

Data Request

100. Please explain how project-related train traffic will be coordinated to avoid conflicts with existing train traffic.

Response: Train traffic will be routine during peak construction as shown on the construction schedule. One train per day is a reasonable main line outage for dispensing the cars to the rail spur. The rail spur is being upgraded to support this project and the car total per train trip will be limited to the cars that can safely be retrieved and discharged to the rail spur.

Background

The AFC page 5.12-15 states that heavy equipment would be delivered to the CECP site using an existing rail spur that serves the Encina Power Station. However, the AFC does not discuss how many train deliveries would be made or how train deliveries may affect traffic flow on the local transportation system.

Data Request

101. a. Please provide the number and frequency of train deliveries (per day/week/month) that would be required during construction of the CECP, as well as approximate times of such deliveries.

Response: Table 2.2-5a has this information for expected deliveries. This will be scheduled with the rail dispatcher to optimize the rail use during the construction period.

b. Please provide the same data as for 101a. above for train deliveries that would be required for CECP operation.

Response: Train deliveries are not being planned for routine operation of the plant.

Data Request

102. Please discuss how the increase in frequency of train deliveries to the project site would affect traffic flow on the local roadway system (especially Cannon Road), including frequency and duration of traffic delays due to rail crossing.

Response: Due to the length of the freight trains and the need for track space to retrieve and discharge rail cars from the spur, the Cannon Road crossing may be blocked for a period of time. This will be taken into consideration when assembling the train cars for delivery and coordinates with the train traffic manager.

Background

The AFC page 5.12-10 states that the access point for CECP construction truck deliveries would be from Avenida Encinas at Cannon Road to avoid crossing the rail lines. However, according to the city of Carlsbad this would require construction trucks to cross a San Diego Gas & Electric (SDG&E) easement at the end of Avenida Encinas in order to access the CECP site.

Data Request

103. Please demonstrate through a formal written letter (or an email that could be docketed) from SDG&E that CECP construction traffic would be allowed to use SDG&E's easement for access into the CECP site.

Response: It is not necessary for the applicant to obtain formal written consent from SDG&E to cross the parcel owned by SDG&E that lies between the proposed CECP site and the West Hotel property ("SDG&E property"), as the applicant and SDG&E have a recorded easement agreement that allows the applicant access over the SDG&E property.

In 2003, when the applicant sold the SDG&E property to SDG&E, the parties entered into an easement agreement, recorded with the San Diego County Recorder's Office ("the Agreement" Attachment DR103-1). The Agreement granted to the applicant "certain easements that are required to facilitate the operations" of the applicant. (Easement Agreement, Recitals C.) SDG&E granted non-exclusive easements to the applicant for water lines and fire safety tanks, drainage, and access. (Easement Agreement, 2.1, 2.2, 2.3.) It was necessary to provide for access to the applicant's land, because SDG&E's acquisition left parcels such as the proposed CECP site

landlocked for all intents and purposes, with the AT&SF railroad to the west, Agua Hedionda Lagoon to the north, Interstate 5 to the east, and the SDG&E property to the south.

The access easement granted to the applicant is "in, on, over, under, across and through the SDG&E Land for the benefit of the Plant Land [applicant's property, e.g. parcels containing the Encina Generating Station ("EGS") and the proposed CECP site], for the purpose of vehicular and pedestrian access (i) to and from Plant Land from and to public streets . . ." (Easement Agreement, 2.3.) This access right must be exercised through and over "such roads, streets, alleys, bridges, tunnels, pathways, sidewalks, stairways, elevators, hallways and other vehicular and pedestrian access ways as are customarily used as of the date of this Agreement for such purposes . . ." (Easement Agreement, 2.3.) The Agreement did not create new access rights in, on, over, under, across or through the SDG&E property that are inconsistent with or expand the custom and practice observed "for efficient use of the Improvements" on applicant's land, such as EGS, the switchyard, and tanks, while the SDG&E property was owned by the applicant from 1998 to 2003. (Easement Agreement, 2.3.)

In general, the easements may be utilized in any lawful manner, for the purposes for which the easements were granted. (Easement Agreement, 3.1.) The Agreement evidences that the applicant has an existing right of access allowing vehicles to cross the SDG&E property on roads, pathways, or other vehicular access ways that existed in 2003. The applicant's use of its right of access must be consistent with and may not expand the custom and practice that the applicant observed for the efficient use of its improvements while it owned the SDG&E property.

The applicant's proposed activity, crossing the SDG&E property with construction vehicles for the replacement of inefficient, existing generating units, is consistent with the custom and practice that the applicant has previously observed in providing for the efficient use of EGS. Moreover, the Agreement expressly provides for each party's right to alter, modify, demolish, or replace existing improvements and construct new improvements on that party's land. (Easement Agreement, 5.1.) The applicant's proposed construction of new generating units and routing of construction vehicles over the SDG&E property is thus not inconsistent with the Agreement and the easement for access provided therein. Therefore, the applicant is not required to obtain permission from SDG&E to cross the SDG&E property, as applicant was granted this right of access when it sold the SDG&E property to SDG&E in 2003. Unless the applicant's use of its easements unreasonably interfered with SDG&E's use of the SDG&E property or the applicant wished to relocate its easements, the applicant need not obtain SDG&E's consent for access across the SDG&E property. (Easement Agreement, 3.1, 5.2.)

ATTACHMENT DR103-1

Easement Agreement

RECORDING REQUESTED BY
STEWART TITLE OF CALIFORNIA

11871

DOC # 2003-1411261

NOV 25, 2003 10:45 AM

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO AND
MAIL TAX STATEMENTS TO:

Cabrillo Power I LLC
Symphony Towers
750 B Street, Suite 2740
San Diego, CA 92101
T.O. 01-021810

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 98.00
DC: NA

2003-1411261

(Above Space For Recorder's Use Only)

F6
3P
DCNA
COR

EASEMENT AGREEMENT

This EASEMENT AGREEMENT (the "Agreement") is made and entered into as of 11/25/2003, by and between SAN DIEGO GAS & ELECTRIC COMPANY, a California corporation (with its successors and assigns, "SDG&E"), and CABRILLO POWER I LLC, a Delaware limited liability company (with its successors and assigns, "Plant Owner").

RECITALS

A. Pursuant to that certain Asset Sale Agreement dated as of December 11, 1998 (the "Asset Sale Agreement"), SDG&E agreed to sell to Dynegy Power Corp., a Delaware corporation ("DPC"), and NRG Energy, Inc., a Delaware corporation ("NRG"), and DPC and NRG have agreed to purchase from SDG&E through the Plant Owner, whose members are subsidiaries of DPC and NRG, fee title to certain real property located in the City of Carlsbad, County of San Diego, California, (the "Initial Plant Land"), together with certain buildings and improvements located thereon.

B. SDG&E and Plant Owner executed that certain Option Agreement dated May 20, 1999 a memorandum of which was recorded May 20, 1999, as document no. 1999-0347271 (the "Option Agreement"), pursuant to which Plant Owner granted to SDG&E the option to purchase portions of the Initial Plant Land.

C. Pursuant to the Option Agreement, SDG&E has purchased a portion of the Initial Plant Land. Accordingly, and as is contemplated by the Option Agreement, Plant Owner and SDG&E desire to enter into this Agreement for the purpose of granting to Plant Owner certain easements that are required to facilitate the operations of Plant Owner now that SDG&E has purchased a portion of the Initial Plant Land.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1.
DEFINITIONS AND RULES OF CONSTRUCTION

1.1 Defined Terms. The following terms, when used herein with initial capitalization, shall have the meaning specified in this section. The singular shall include the

plural and the masculine shall include the feminine and neuter, and vice versa. The terms "includes" or "including" shall not be limiting, whether or not followed by the words "without limitation." References to a section shall mean a section of this Agreement unless the context requires otherwise, and reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented and restated through the date as of which such reference is made. References to Laws shall be deemed references to such Laws as they may be amended from time to time. This Agreement and any documents or instruments delivered pursuant hereto shall be construed without regard to the identity of the person who drafted the various provisions of the same. Each and every provision of this Agreement and such other documents and instruments shall be construed as though the Parties participated equally in the drafting of the same. Consequently, the Parties acknowledge and agree that any rule of construction that a document is to be construed against the drafting Party shall not be applicable either to this Agreement or such other documents and instruments. Capitalized terms not defined herein shall have the meanings assigned in the Asset Sale Agreement.

1.1.1 "AAA" is defined in Section 12.1.

1.1.2 "Affiliate" means, with respect to a specified Person, any corporation, partnership, sole proprietorship or other Person which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person specified. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person; provided however, that a contract between a Person and any fuel supplier or power purchaser related solely to the provision of fuel or power does not, by itself, constitute "control" for purposes of this definition.

1.1.3 "Agreement" means this Easement Agreement.

1.1.4 "Asset Sale Agreement" means that certain Asset Sale Agreement dated as of December 11, 1998 between SDG&E and Plant Owner relating to the Plant.

1.1.5 "Claim Notice" is defined in Section 8.3.

1.1.6 "Environmental Law" means any applicable federal, state, regional, or local statutes, regulations ordinances, codes, permits, orders, or controlling common law relating to: (i) air emissions, Hazardous Materials, storage, use and release to the environment of hazardous or toxic substances, generation, treatment, storage, and disposal of hazardous wastes, wastewater discharges and similar environmental matters; or (ii) the impact of the matters described in the preceding clause upon human health or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 5101 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Oil Pollution Act (33 U.S.C. § 2701 et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.), the Porter-Cologne Water Quality Control Act (Cal. Wat. Code § 13000 et seq.), the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5 et seq.), the Hazardous

Substance Account Act (Cal. Health & Safety Code § 25300 et seq.), the Hazardous Waste Control Act (Cal. Health & Safety Code § 25100 et seq.), and the California Clean Air Act (Cal. Health & Safety Code § 39000 et seq.).

1.1.7 "Facilities Services Agreement" means that certain Facilities Services Agreement dated as of December 11, 1998 between SDG&E and Plant Owner respecting the Property, as amended from time to time.

1.1.8 "Force Majeure Event" means any occurrence beyond the reasonable control of and without the fault or negligence of a Party claiming such Force Majeure Event, which causes such Party to be unable to perform its obligations under this Agreement, which by exercise of due foresight such Party could not reasonably have been expected to avoid and which such Party is unable to overcome by the exercise of due diligence, including an act of God, requirement to comply with any Requirement of Law, war, civil disturbance, riot, strike or other labor dispute, material shortage, fire, explosion, flood, earthquake, storm, lightning and other natural catastrophes, breakdown of equipment caused by a Force Majeure Event, failure of a contractor or subcontractor caused by a Force Majeure Event, or transportation delays or stoppages, provided that in any event a Force Majeure Event shall not include lack of finances.

1.1.9 "Governmental Body" means any federal, state, regional, local, or other government; any governmental, regulatory or administrative agency, commission, body or other authority having jurisdiction to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power affecting the Plant or Grid; and any court or governmental tribunal; but does not include either Party or its respective Affiliates or any owner or operator of the Plant (if otherwise a Governmental Body).

1.1.10 "Grid" means the interconnected power system operated by SDG&E or the ISO.

1.1.11 "Hazardous Materials" means any chemicals, materials, substances, or items in any form, whether solid, liquid, gaseous, semisolid, or any combination thereof, whether waste materials, raw materials, chemicals, finished products, by-products, or any other materials or articles, which because of their physical, chemical, or other characteristics may pose a risk of endangering human health or safety or of degrading the environment and are regulated under any Environmental Law.

1.1.12 "Improvement" means all structures, improvements, facilities, systems, fixtures and equipment of any kind now or hereafter located on the Property, whether above or below the land surface, whether real or personal property, and whether permanent or temporary, including without limitation, all buildings, sheds, energy plants, tanks, pipelines (including meters, connections, valves and other associated equipment), cables, wires, conduits, cable trays, trenches, mains, lines, ducts, fences, towers, antennae, tunnels, driveways, streets, alleys, paved parking areas, pathways, screening walls, awnings, retaining walls, plantings, shrubs and other landscaping, irrigation and drainage pipes and facilities, lighting fixtures and signs.

1.1.13 "Indemnitee" means a Plant Owner Indemnitee or SDG&E Indemnitee, as the context may require, who benefits from any indemnification provision herein.

1.1.14 "Indemnitor" means either Plant Owner or SDG&E in compliance with the indemnification provisions hereof.

1.1.15 "Initial Plant Land" is defined in Recital A.

1.1.16 "ISO" means the Independent System Operator described in Article 3 of Chapter 2.3 of Part 1 of Division 1 of the California Public Utilities Code.

1.1.17 "Land" means, collectively, the Plant Land and the SDG&E Land.

1.1.18 "Laws" means all court decisions, case law, statutes, rules, regulations, ordinances, orders, decrees and codes of a Governmental Body.

1.1.19 "Licenses" means registrations, licenses, permits, authorizations and other consents or approvals or entitlements issued by any Governmental Bodies.

1.1.20 "Losses" means, subject to Section 9, claims, demands, suits, loss, liability, damage and expense, including reasonable attorneys' fees and costs of investigation, litigation, settlement and judgment, as well as the Indemnitee's obligations itself to provide indemnity for such claims, demands, suits, loss, liability, damage and expense to its directors, officers, attorneys, employees, subcontractors, agents and assigns.

1.1.21 "Mortgage" means a deed of trust, mortgage or other consensual encumbrance recorded against the Property or any portion thereof.

1.1.22 "Mortgagee" means a beneficiary under, or holder of, a Mortgage.

1.1.23 "Option Agreement" is defined in Recital B.

1.1.24 "Party" or "Parties" means, individually or collectively, as the case may be, SDG&E, its successors and assigns, or/and Plant Owner, its successors and assigns.

1.1.25 "Permit" means any action, approval, consent, waiver, exemption, variance, franchise, order, permit, authorization, right, license or other similar action of or from a Governmental Body.

1.1.26 "Permittees" means, with respect to a particular Party, all Persons entitled to occupy or use all or any portion of the Property of such Party by virtue of a lease, easement, license or other legal relationship with such Party; provided, however, that neither Party shall be included in the definition of a "Permittee" of the other Party under this Agreement.

1.1.27 "Person" means any individual, sole proprietorship, corporation, limited liability company, partnership, trust or trustee thereof, estate or executor thereof, unincorporated organization or joint venture, court or governmental unit or any agency or subdivision thereof, or any other legally recognizable entity.

1.1.28 "Plant" means the electric energy generation plant located on the Plant Land.

1.1.29 "Plant Improvements" means all Improvements owned by Plant Owner, regardless of whether such Improvements are located on the Plant Land or on the SDG&E Land.

1.1.30 "Plant Land" means the portion of the Initial Plant Land owned by Plant Owner after exercise of the option by SDG&E under the Option Agreement and the closing thereunder.

1.1.31 "Plant Owner Claims" is defined in Section 8.1.

1.1.32 "Plant Owner Indemnitees" means Plant Owner, its Affiliates, and their respective permitted successors, assigns, shareholders, directors, officers, employees, contractors, and agents.

1.1.33 "Plant Property" means, collectively, (i) the Plant Land, and (ii) the Plant Improvements.

1.1.34 "Property" means, collectively, the Plant Property and the SDG&E Property.

1.1.35 "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, and (c) the normal application of fertilizer, fungicides, or other agricultural products. Release also includes the migration of Hazardous Materials into, under, on, through, or in the air, soil, subsurface strata, surface water, groundwater, drinking water supply, any sediments associated with any water bodies, or any other environmental medium, regardless of where such migration originates.

1.1.36 "Requirement of Law" means any law, treaty, rule or regulation, or determination of an arbitrator, court or other Governmental Body, or any franchise, license, lease, Permit, certificate, authorization, qualification, easement, right-of-way, right or approval binding on a Party or any of its property.

1.1.37 "Rules" is defined in Section 12.1.

1.1.38 "SDG&E Claims" is defined in Section 8.1.

1.1.39 "SDG&E Improvements" means all Improvements owned by SDG&E, regardless of whether such Improvements are located on the SDG&E Land or on the Plant Land.

1.1.40 "SDG&E Indemnitees" means SDG&E, its Affiliates, and their respective permitted successors, assigns, shareholders, directors, officers, employees and agents.

1.1.41 "SDG&E Land" means the land purchased by SDG&E pursuant to the Option Agreement.

1.1.42 "SDG&E Operations Equipment" means that portion of the SDG&E Improvements which constitutes equipment, facilities, cabling and other personal property located in or on the Plant Property, and used by SDG&E for any of the purposes of (i) the operation of an electrical substation, (ii) the operation of the Grid, (iii) the control of continuity between the Grid and the electric energy generation plant located on the Plant Land, (iv) the transmission of voltage, control and other data and information used in SDG&E's electrical transmission and distribution systems, (v) the operation of SDG&E's facilities located on the SDG&E Land, (vi) the provision of communication and computing services for the electrical substation and other facilities owned and or operated by SDG&E or its designees, or (vii) the provision of telecommunications services. The SDG&E Operations Equipment shall also include all future upgrades, modifications, alterations or replacements to or of such equipment, facilities, cabling and other personal property.

1.1.43 "SDG&E Property" means, collectively, (i) the SDG&E Land, and (ii) the SDG&E Improvements.

1.1.44 "Third Party Claim" means any demand, assertion, claim, action or proceeding, judicial, governmental or otherwise, by any third party.

2.
GRANT OF EASEMENTS TO PLANT OWNER

SDG&E grants to Plant Owner, the following easements:

2.1 **Easement For Water Lines And Fire Safety Tanks**. A non-exclusive easement and right of way to install, maintain, repair and replace water tanks and water lines for fire safety purposes and incidentals thereto, in, upon, under and along the lands depicted on Exhibit A and legally described on Exhibit 2.1.

2.2 **Drainage**. A non-exclusive easement for surface water drainage purposes, in, upon, under and along the lands depicted on Exhibit A and legally described on Exhibit 2.2. Subject to the provisions of Section 5.2 below, such drainage shall occur on, over and through such pipes, drains, gulleys, culverts, ditches, ponds and other facilities as exist on the SDG&E Property as of the date of this Agreement. Neither Party shall take any action (including, without limitation, the construction, demolition or alteration of any Improvements or the alteration of the surface of the SDG&E Land, which shall alter or modify the drainage existing as of the date of this Agreement from, to or over the SDG&E Property so as to have an adverse effect on the SDG&E Property or the enjoyment by Plant Owner of the easements granted in this Agreement.

2.3 **Access**. A non-exclusive easement in, on, over, under, across and through the SDG&E Land for the benefit of the Plant Land, for the purpose of vehicular and pedestrian access (i) to and from the Plant Land from and to public streets, (ii) to facilitate the use and enjoyment of the other easements granted herein over the SDG&E Land, and (iii) for the performance of Plant Owner's duties, obligations and responsibilities under this Agreement, the

Facilities Services Agreement and the Asset Sale Agreement. Except as otherwise mutually agreed upon by the Parties, the foregoing access rights shall be exercised through and over such roads, streets, alleys, bridges, tunnels, pathways, sidewalks, stairways, elevators, hallways and other vehicular and pedestrian access ways as are customarily used as of the date of this Agreement for such purposes, subject to future relocation in accordance with the provisions of Article 5, provided however, that this Section 2.3 shall not be construed to create new access rights in, on, over, under, across and through the SDG&E Land which are inconsistent with or expand the custom and practice observed for efficient use of the Improvements while the Plant Land and the SDG&E Land were under common ownership.

2.4 Support. A non-exclusive easement for vertical, lateral and structural load-bearing support for Plant Improvements existing on the SDG&E Property as of the date of this Agreement and any upgrade, reconstruction, alteration, replacement or restoration of such Plant Improvements that does not place a materially greater burden on the SDG&E Property than that which exists as of the date of this Agreement. The foregoing easement shall include an easement for support for and from the columns, beams, joists, girders, walls, footings, foundations and other elements of the associated improvements, and accommodation of the natural settlement of structures; provided, however, that no such easement shall permit any substantial interference with the use and enjoyment of the SDG&E Property.

2.5 Encroachments. A non-exclusive easement for any encroachments which exist as of the date of this Agreement, or future minor encroachments resulting from vertical or lateral displacement, movement or settling of the Plant Improvements; provided, however, no encroachment which was not in existence as of the date of this Agreement shall be permitted which unreasonably interferes with the use and enjoyment of the SDG&E Property.

2.6 Easement for Use of Other Plant Improvements. A non-exclusive easement in, on, over, under, across and through the areas of the SDG&E Land described in this Section 2.6 for the purpose of the use, operation, inspection, maintenance, repair, installation, upgrade, alteration, restoration and replacement of Plant Owner Improvements presently located on the SDG&E Land, but as to which an easement is not otherwise expressly granted to Plant Owner under this Agreement. The easement described in this Section 2.6 shall encumber and burden those portions of the SDG&E Land upon which such Plant Owner Improvements are presently located. Except for such Plant Owner Improvements presently existing on the SDG&E Land, and subject to Article 5 hereof, and for alterations, upgrades, restorations or replacements thereof which do not place an increased burden on the SDG&E Land, no additional Improvements shall be installed on the SDG&E Land by or on behalf of Plant Owner pursuant to this Section 2.6.

2.7 INTENTIONALLY OMITTED.

3.
USE OF PROPERTY AND EASEMENTS

3.1 In General. The Property may be used for any lawful purpose, and the easements granted herein may be utilized in any lawful manner for the purposes for which such easements are granted herein, provided that all use of the Property and the easements granted herein shall be subject to the following: (i) no portion of the Property shall be used in a manner which

unreasonably interferes with the use of the easements granted in this Agreement; (ii) no use of the easements granted herein shall be made which unreasonably interferes with the use of the remaining portions of the Property; (iii) no use of the Property or any of the easements granted herein shall be made in a manner or for a purpose which causes any Party to be in violation of, or in noncompliance with, any Requirement of Law; and (iv) no use of the Property or any of the easements granted herein shall be made which constitutes or produces a nuisance or disturbance to other portions of the Property other than such noises, vibrations, odors, dust, emissions and electro-magnetic interferences or disturbances and the like which are lawfully and customarily incidental to the operation of a fossil-fueled electrical energy generation plant, the transmission of electrical energy, the storage and distribution of fuel, or the other uses currently existing on the Property as of the date of this Agreement. Notwithstanding the foregoing, but subject to compliance with applicable Requirements of Law, the Parties expressly consent to the uses and manner of operation of the Property in existence as of the date of this Agreement, including the portion of such current uses and manner of operation which will hereafter be conducted pursuant to the easements granted herein. If any use of the Property shall result in any damage to any Improvements used in connection with an easement granted herein, or if any use of an easement granted herein shall result in any damage to Improvements located on the servient tenement, then the Party causing such damage shall, at its own expense, promptly restore the damaged Improvements to their condition existing prior to the date of such damage.

3.2 Cooperation. Pursuant to Section 2.6, Plant Owner has an easement over the SDG&E Land for the purpose of the use, operation, inspection, maintenance, repair, installation, upgrade, alteration, restoration and replacement of the Plant Improvements. SDG&E acknowledges that the Plant Improvements are, in many cases, located in areas of the SDG&E Land in which fixtures, equipment and other property of SDG&E used in connection with the operation of SDG&E Operations Equipment and other SDG&E Improvements are located. Each Party agrees to cooperate with the other Party so as not to interfere with or obstruct the use by such other Party of such other Party's fixtures, equipment and other property. Such duty of cooperation shall include the obligation of the Parties to mutually agree upon reasonable rules and procedures for the use by the Parties of those areas of the Plant Property in which the Parties' shared use is required as a result of the easement granted in Section 2.6.

3.3 Change in Ground Surface Elevations. Subject to the provisions of Section 5.2, Plant Owner shall not increase or decrease the ground surface elevations nor allow the ground surface elevation to be increased or decreased in any manner within the easements herein granted, nor shall the ground within the easements herein granted be penetrated in any manner to a depth in excess of eighteen (18) inches without the prior written consent of the SDG&E, which consent shall not be unreasonably withheld, conditioned or delayed. The foregoing limitation shall not prevent the removal or relocation of earthen berms.

3.4 Landscape Maintenance. SDG&E shall have the right to trim, cut and remove trees, brush, foliage, roots and other vegetation from within the easements granted herein whenever in SDG&E's judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted, and shall have the obligation to trim, cut and remove such trees, brush, foliage, roots and other vegetation at its own expense as required by orders of the California Public Utilities Commission. This right shall not relieve Plant Owner of any duty to trim, cut and remove trees and brush to prevent danger or hazard to property or persons.

4.
MAINTENANCE AND REPAIR

Any and all Improvements which are used in common by both Parties in connection with an easement granted hereunder including Improvements providing vertical, lateral or structural load-bearing support, shall be maintained and repaired in a good condition and in compliance with all Requirements of Law by the owner of such Improvements, at such owner's sole cost and expense. Any and all Improvements used solely by Plant Owner shall be maintained and repaired in a good condition and in compliance with all Requirements of Law by Plant Owner, at Plant Owner's sole cost and expense. Notwithstanding any contrary provision hereof, as long as the Facilities Services Agreement remains in effect, this Section 5 shall be subject to the terms and provisions of the Facilities Services Agreement, and in the event of any inconsistency or conflict between the terms and provisions of this Section 5 and the terms and provisions of the Facilities Services Agreement, the terms and provisions of the Facilities Services Agreement shall control.

5.
NEW IMPROVEMENTS OR ALTERATIONS; RELOCATION OF EASEMENTS

5.1 New Improvements or Alterations. Subject to the provisions of Section 6 below, and subject to the Parties' obligations under the Facilities Services Agreement, each Party shall have the right to alter, modify, demolish or replace the Improvements owned by such Party and located on such Party's land and/or to construct new Improvements on such Party's land, provided that (i) with respect to Improvements owned by SDG&E which are not used by Plant Owner, such Improvements, as they exist after such alteration, modification, demolition, replacement or construction, shall not unreasonably interfere with the use and enjoyment of the easements granted herein; and (ii) with respect to Improvements owned by SDG&E which are used in common by both SDG&E and Plant Owner, such alteration, modification, demolition, replacement or new construction shall not unreasonably interfere with the use and enjoyment of the easements herein granted, except in the case of (i) and (ii) for temporary interference occasioned by construction work performed in compliance with the provisions of Section 6 below.

5.2 Relocation of Easements. At the request of either Party, the areas of the Property which are burdened by the easements granted herein shall be subject to relocation upon the consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed (material interference with the operation of the applicable Property shall constitute reasonable grounds for withholding consent). The Party requesting the relocation shall be responsible for all reasonable out-of-pocket costs and expenses incurred by the other Party or its customers in connection with the requested relocation, including without limitation cost of land or easement acquisition, design costs, hard and soft construction costs, labor costs, customer charges, all relocation, alteration, modification, demolition and other construction work required with respect to affected Improvements, all site restoration work and damage resulting therefrom, and all charges relating to the relocation or reconfiguration of customer premises equipment or facilities. In addition, the relocation requested by a Party shall not disrupt or impair the other Party's operations or increase the other Party's costs of operation in any material respect, except

for temporary interference occasioned by construction work performed in compliance with the provisions of Section 6 below.

6.
REGULATIONS REGARDING MAINTENANCE AND CONSTRUCTION WORK

All construction, demolition and/or maintenance work or activities on the Property (i) performed by or on behalf of Plant Owner in connection with an easement granted hereunder, or (ii) performed by or on behalf of SDG&E in an instance in which such construction activities affect an easement granted hereunder, shall be performed in accordance with the following requirements:

6.1 **No Unreasonable Interference**. No such work or activity shall unreasonably interfere with the use, occupancy or enjoyment of the SDG&E Property, or with the use or enjoyment of an easement granted hereunder or with the Parties' respective rights and obligations under the Facilities Services Agreement, except in each case for temporary minor inconveniences, the scope and duration of which are minimized to the extent reasonably possible.

6.2 **Compliance with Requirements of Law**. No such work or activity shall cause the other Party to be in violation of any Requirement of Law.

6.3 **Repair of Defects**. Subject to the Facilities Services Agreement, all work performed by or on behalf of Plant Owner shall be performed in a manner that will not damage the SDG&E Property, other than minor damage which shall be promptly and diligently repaired by Plant Owner. Subject to the Facilities Services Agreement, Plant Owner shall promptly remedy any defects in work performed by or on behalf of Plant Owner which have a material adverse effect on the SDG&E Property, or its use or operations, or subject SDG&E to material risk of liability.

6.4 **Safety Measures**. Each Party responsible for any work or activity shall take all safety measures reasonably necessary to protect the other Party, its Permittees and the property of each, from injury or damage caused by or resulting from the performance of such work or activity.

6.5 **Notice of Work**. Except for normal and periodic maintenance work performed in the ordinary course, no construction, alteration, installation, upgrade or restoration work shall be performed on the SDG&E Property without Plant Owner first providing SDG&E with reasonable prior written notice of such work.

7.
INSURANCE

7.1 **General Liability Insurance**. Each Party shall maintain a commercial general liability policy or policies, including coverage for sudden and accidental pollution liability, insuring against liability arising from bodily injury, property damage, personal and advertising injury, independent contractors liability, products and completed operations, and contractual

liability. Such coverage shall be in an amount of not less than $10,000,000 combined single limit per occurrence.

7.2 **Workers' Compensation Insurance**. In accordance with the laws of the State of California, each Party shall maintain in force workers compensation insurance for all of its employees. Each Party shall also maintain employer's liability coverage in an amount of not less than $1,000,000 per accident and per employee for disease. In lieu of such insurance, each Party may maintain a self-insurance program meeting the requirements of the State of California along with the required employer's liability insurance.

7.3 **Automobile Liability Insurance**. Each Party shall maintain an automobile liability policy insuring against liability for damages because of bodily injury, death or damage to property (including loss of use thereof) and occurring in any way related to the use, loading or unloading of each Parties' automobiles (including owned, non-owned, leased and rented vehicles). Coverage shall be in an amount of not less than $1,000,000 each accident. In lieu of such insurance, parties may maintain a self-insured program meeting the requirements in the State of California.

7.4 **Additional Insured**. Each Party shall be named as an additional insured in each general liability policy. Such general liability insurance shall provide a severability of interest or cross-liability clause.

7.5 **Property Insurance**. Plant Owner shall maintain All-Risk Property Insurance and Boiler and Machinery Insurance for physical loss or damage to the Plant in amounts customary in the electric utility generating industry. Such insurance shall waive subrogation against SDG&E. SDG&E shall maintain casualty insurance for physical loss or damage to the SDG&E Improvements, or shall self-insure against such loss or damage. Such insurance (or SDG&E, in the case of self-insurance) shall waive subrogation against Plant Owner.

8.
INDEMNIFICATION

8.1 **Mutual Indemnification**. SDG&E shall indemnify, defend and hold harmless each Plant Owner Indemnitee from and against all Losses which arise out of or relate to any Third Party Claim against any Plant Owner Indemnitee arising out of SDG&E's breach of this Agreement (collectively, "Plant Owner Claims"); and Plant Owner shall indemnify, defend and hold harmless each SDG&E Indemnitee from and against all Losses which arise out of or relate to any Third Party Claim against any SDG&E Indemnitee arising out of Plant Owner's breach of this Agreement (collectively, "SDG&E Claims").

8.2 **Mutual Environmental Indemnification**. SDG&E shall indemnify, defend and hold harmless each Plant Owner Indemnitee from and against all Losses which arise out of or relate to (i) any Third Party Claim against any Plant Owner Indemnitee arising out of or relating to a Release caused by any SDG&E Indemnitee of Hazardous Materials in, on, over or about the soil, groundwater or surface water on SDG&E Land, or into the air from SDG&E Land, after the date of this Agreement or (ii) any claim by Plant Owner against SDG&E arising out of or relating to a Release caused by any SDG&E Indemnitee of Hazardous Materials in, on, over or

about the soil, groundwater or surface water on SDG&E Land, or into the air from SDG&E Land, after the date of this Agreement; and Plant Owner shall indemnify, defend and hold harmless each SDG&E Indemnitee from and against all Losses which arise out of or relate to any Third Party Claim against any SDG&E Indemnitee arising out of or relating to a Release by any Plant Owner Indemnitee of Hazardous Materials in, on, over or about the soil, groundwater or surface water on SDG&E Land, or into the air from SDG&E Land, after the date of this Agreement. With respect to Third Party Claims relating to events which occurred or circumstances which existed prior to the date of this Agreement the terms and conditions of the Asset Sale Agreement shall govern to the extent set forth therein.

8.3 **Procedures Respecting Third Party Claims**. In providing notice to the Indemnitor of any Third Party Claim (the "Claim Notice"), the Indemnitee shall provide the Indemnitor with a copy of such Third Party Claim or other documents received and shall otherwise make available to the Indemnitor all relevant information material to the defense of such claim and within the Indemnitee's possession. The Indemnitor shall have the right, by notice given to the Indemnitee within 15 days after the date of the Claim Notice, to assume and control the defense of the Third Party Claim that is the subject of such Claim Notice, including the employment of counsel selected by the Indemnitor after consultation with the Indemnitee, and the Indemnitor shall pay all expenses of, and the Indemnitee shall cooperate fully with the Indemnitor in connection with, the conduct of such defense. The Indemnitee shall have the right to employ separate counsel in any such proceeding and to participate in (but not control) the defense of such Third Party Claim, but the fees and expenses of such counsel shall be borne by the Indemnitee unless the Indemnitor shall agree otherwise; provided, however, if the named parties to any such proceeding (including any impleaded parties) include both the Indemnitee and the Indemnitor, the Indemnitor requires that the same counsel represent both the Indemnitee and the Indemnitor, and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them, then the Indemnitee shall have the right to retain its own counsel at the cost and expense of the Indemnitor. If the Indemnitor shall have failed to assume the defense of any Third Party Claim in accordance with the provisions of this section, then the Indemnitee shall have the absolute right to control the defense of such Third Party Claim, and, if and when it is finally determined that the Indemnitee is entitled to indemnification from the Indemnitor hereunder, the fees and expenses of Indemnitee's counsel shall be borne by the Indemnitor, provided that the Indemnitor shall be entitled, at its expense, to participate in (but not control) such defense. The Indemnitor shall have the right to settle or compromise any such Third Party Claim for which it is providing indemnity so long as such settlement does not impose any obligations on the Indemnitee (except with respect to providing releases of the third party). The Indemnitor shall not be liable for any settlement effected by the Indemnitee without the Indemnitor's consent except where the Indemnitee has assumed the defense because Indemnitor has failed or refused to do so. The Indemnitor may assume and control, or bear the costs, of any such defense subject to its reservation of a right to contest the Indemnitee's right to indemnification hereunder, provided that it gives the Indemnitee notice of such reservation within 15 days of the date of the Claim Notice.

8.4 **General Indemnification Provisions**.

8.4.1 The Indemnitee shall promptly upon its discovery of facts or circumstances giving rise to a claim for indemnification, including receipt by it of any Third Party Claim, give notice thereof to the Indemnitor, such notice in any event to be given within 60 days from the date the Indemnitee obtains actual knowledge of the basis or alleged basis for the right of indemnity or such shorter period as may be necessary to avoid material prejudice to the Indemnitor.

8.4.2 In computing Losses, such amounts shall be computed net of any related recoveries to which the Indemnitee is entitled under insurance policies, or other related payments received or receivable from third parties, and net of any tax benefits actually received by the Indemnitee or for which it is eligible, taking into account the income tax treatment of the receipt of indemnification.

8.4.3 The provisions of this Section 8.4 shall not be construed to relieve any insurer of its obligations to pay any insurance claims in accordance with the provisions of any valid insurance policy.

8.4.4 The provisions of this Section 8.4 shall survive the expiration or early termination of this Agreement, provided that neither Party shall have liability under this Agreement in connection with any claim or demand arising out of this Agreement, whether pursuant to Section 8.4.1 or otherwise, following the first anniversary of the earlier of the Expiration Date and the termination of this Agreement unless, prior to such date, such Party has been notified of such claim or demand.

8.4.5 The provisions of this Agreement shall not affect liability of either Party to the ISO or any other third party.

8.4.6 Nothing in this Agreement is meant to change the respective Parties' indemnification rights and obligations pursuant to the Asset Sale Agreement.

9.
CONSEQUENTIAL DAMAGES; DISCLAIMER

Notwithstanding the provisions of Section 11, neither Party shall be liable to the other Party or to any other Person for any punitive, incidental, indirect, special or consequential loss or damage, including loss of revenues, income or profits, cost of capital, loss of goodwill or reputation or increased operating costs. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations on liability expressed in this Agreement shall apply at all times, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Plant Owner Indemnitees and SDG&E Indemnitees.

10.
DESTRUCTION OF IMPROVEMENTS

In the event any Improvements over which Plant Owner has an easement granted herein (as opposed to any Improvements constructed and owned by Plant Owner in Plant Owner's easement area) or Improvements which provide support for Improvements owned by the other Party, shall be damaged or destroyed by any casualty, it shall be the duty of the owner of such Improvements, at such owner's sole cost and expense, to restore and repair such Improvements (or make alternative arrangements that provide Plant Owner with reasonably equivalent benefits it enjoyed from the easement in question prior to the casualty) in as fast and efficient a means as commercially practicable. No such damage or destruction of the servient tenement shall result in the termination of an easement granted herein.

11.
DEFAULTS/ENFORCEMENT

11.1 Defaults. Any Party which commits a breach of any covenant, restriction, term or provision of this Agreement shall be considered to be in default under this Agreement if such Party shall fail to cure such breach within thirty (30) days following receipt of written notice from an aggrieved Party specifying such breach; provided, that if the nature of the particular breach reasonably requires more than thirty (30) days to cure, then such Party shall not be considered to be in default of this Agreement if such Party commences the cure of the breach within the foregoing thirty (30) day period and thereafter diligently prosecutes such cure to completion.

11.2 General Remedies. Subject to the provisions of Article 12 below, in the event of any default of this Agreement as provided in Section 11.1 above, any aggrieved Party shall have the right to prosecute a proceeding at law or in equity against the defaulting Party for damages, injunctive relief or other remedies at law or in equity.

11.3 Failure To Enforce Not A Waiver Of Rights. The failure of any aggrieved Party to enforce any covenant, condition, restriction or provision herein contained shall in no event be deemed to be a waiver of the right thereafter to do so, nor of the right to enforce any other covenant, condition, restriction or provision set forth in this Agreement. A Party shall be considered to have waived any rights hereunder only if such waiver shall be in writing.

11.4 Term; Termination. This Agreement will be effective upon execution by the Parties. Notwithstanding anything contained or implied in this Agreement to the contrary, in no event shall the remedies available hereunder for a breach of the provisions hereof include termination of this Agreement. Each Party waives any right under law, equity or otherwise, to terminate this Agreement.

11.5 Force Majeure. If either Party is unable to perform its obligations under this Agreement due to a Force Majeure Event, the non-performing Party shall promptly notify the other Party of the occurrence of the Force Majeure Event. The non-performing Party shall be relieved from its obligations under this Agreement, except for the obligations to pay money, when and to the extent the non-performing Party's inability to perform its obligations is caused by the Force Majeure Event, provided that the relief from performance is of no greater scope and of no longer duration than is required by the Force Majeure Event. The non-performing Party shall use reasonable efforts to remedy its inability to perform and to mitigate the consequences of

the Force Majeure Event, provided that no Party shall be required to settle any strike or other labor dispute on terms which, in the Party's reasonable judgment, are contrary to its interest. The non-performing Party shall advise the other Party of its effort to remedy its inability to perform and to mitigate the consequences of the Force Majeure Event, and shall advise the other Party of when it will be able to resume performance of its obligations under this Agreement.

12.
ARBITRATION

12.1 Agreement to Arbitrate. Any controversy or claim arising out of or relating to this Agreement, or the breach or alleged breach hereof, shall upon demand of either Party be submitted to arbitration in the manner hereinafter provided. The Parties shall make every reasonable effort to resolve any such controversy or claim without resort to arbitration. In the event the Parties are unable to effect a satisfactory resolution, such controversy shall be submitted to arbitration in accordance with the terms and provisions of this Article 12 and in accordance with the then current Commercial Arbitration Rules (the "Rules") of the American Arbitration Association (or any successor organization) (the "AAA"). Any such arbitration shall take place in San Diego, California and shall be administered by the AAA. In the event of any conflict between the terms and provisions of this Article 12 and the Rules, the terms and provisions of this Article 12 shall prevail.

12.2 Submission to Arbitration. A Party desiring to submit to arbitration any such controversy shall send a written arbitration demand to the AAA and to the opposing Party. The demand shall set forth a clear and complete statement of the nature of the claim, its basis, and the remedy sought, including the amount of damages, if any. The opposing Party may, within thirty days of receiving the arbitration demand, assert a counterclaim and/or set-off. The counterclaim or set-off, which shall be sent to the AAA and the opposing Party, shall include a clear and complete statement of the nature of the counterclaim or set-off, its basis, and the remedy sought, including the amount of damages, if any.

12.3 Selection of Arbitration Panel. The dispute shall be decided by a panel of three neutral arbitrators selected as follows: The AAA shall submit to the parties, within 10 days after receipt of any arbitration demand, a list of 11 potential arbitrators consisting of retired federal or state court judges; provided that none of the potential arbitrators shall have (or have ever had) any material affiliation of any kind with either Party or any Affiliate of either Party. Each Party shall, within five days, strike four, three, two, one or none of the arbitrators, rank the remaining arbitrators in order of preference (with "1" designating the most preferred, "2" the next most preferred and so forth) and so advise the AAA in writing. The AAA shall appoint the arbitrators with the best combined preference ranking on both lists and designate the most preferred arbitrator as presiding officer (in each case, selecting by lot, if necessary, in the event of a tie).

12.4 Prehearing Discovery. There shall be no prehearing discovery except as set forth in this Section 12.4. Subject to the authority of the presiding officer of the arbitration panel to modify the provisions of this Section 12.4 before the arbitration hearing upon a showing of exceptional circumstances, each Party (a) shall propound to the other no more than 20 requests for production of documents, including subparts, and (b) shall take no more than two discovery depositions. Such discovery shall be conducted in accordance with the provisions and

procedures of the Federal Rules of Civil Procedure. No interrogatories or requests for admission shall be permitted. Disputes concerning discovery obligations or protection of discovery materials shall be determined by the presiding officer of the arbitration panel. The foregoing limitations shall not be deemed to limit a Party's right to subpoena witnesses or the production of documents at the arbitration hearing, nor to limit a Party's right to depose witnesses that are not subject to subpoena to testify in person at the arbitration hearing; provided, however, that the presiding officer of the arbitration panel may, upon motion, place reasonable limits upon the number and length of such testimonial depositions.

12.5 Arbitration Hearing. The presiding officer of the arbitration panel shall designate the place and time of the hearing. The hearing shall be scheduled to begin within 90 days after the filing of the arbitration demand (unless extended by the arbitration panel on a showing of exceptional circumstances) and shall be conducted as expeditiously as possible. In all events, the issues being arbitrated, which shall be limited to those issues identified in the initial claim and counterclaim submitted to the arbitration panel pursuant to Section 12.2, shall be submitted for decision within 30 days after the beginning of the arbitration hearing. At least 30 days prior to the beginning of the arbitration hearing, each Party shall provide the other Party and the arbitration panel with written notice of the identity of each witness (other than rebuttal witnesses) it intends to call to testify at the hearing, together with a detailed written outline of the substance of the anticipated testimony of each such witness. The arbitration panel shall not permit any witness to testify that was not so identified prior to the hearing and shall limit the testimony of each such witness to the matters disclosed in such outline. Subject to the foregoing, the Parties shall have the right to attend the hearing, to be represented by counsel, to present documentary evidence and witnesses, to cross-examine opposing witnesses and to subpoena witnesses. The Federal Rules of Evidence shall apply and the panel shall determine the competency, relevance, and materiality of evidence as appropriate. The panel shall recognize privileges available under applicable Law. A stenographic record shall be made of the arbitration proceedings.

12.6 Award. The panel's award shall be made by majority vote of the panel. An award in writing signed by at least two of the panel's arbitrators shall set forth the panel's findings of fact and conclusions of law. The award shall be filed with the AAA and mailed to the Parties no later than 30 days after the last day of testimony at the arbitration hearing. The panel shall have authority to issue any lawful relief that is just and equitable, except punitive damages or other damages excluded from the indemnities contained in Section 8. The award shall state that it dissolves and supersedes any provisional remedies entered pursuant to Section 12.7.

12.7 Provisional Remedies. Pending the selection of the arbitration panel, upon request of a Party, the AAA may appoint a retired judge to serve as a provisional arbitrator to rule on any motion for preliminary relief. Any preliminary relief ordered by the provisional arbitrator may be immediately entered in any federal or state court having jurisdiction thereof even though the decision on the underlying dispute may still be pending. Once constituted, the arbitration panel may, upon request of a Party, issue a superseding order to modify or reverse such preliminary relief or may itself order preliminary relief pending a full hearing on the merits of the underlying dispute. Any such initial or superseding order of preliminary relief may be immediately entered in any federal or state court having jurisdiction thereof even though the

decision on the underlying dispute may still be pending. Such relief may be granted by the appointed arbitrator or the arbitration panel only after notice to and opportunity to be heard by the opposing Party. Such awards of preliminary relief shall be in writing and, if ordered by a panel of three arbitrators, must be signed by at least two of the panel members.

12.8 Entry of Award by Court. The arbitration panel's arbitration award shall be final. The Parties agree and consent that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.

12.9 Costs and Attorney's Fees. The prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, and the Party losing the arbitration shall pay all expenses and fees of the AAA, all costs of the stenographic record, all expenses of witnesses or proofs that may have been produced at the direction of the arbitrators, and the fees, costs, and expenses of the arbitrators. The arbitration panel shall designate the prevailing Party for these purposes.

13.
RUN WITH LAND

Each and all of the easements, covenants, conditions and restrictions set forth in this Agreement shall run with and bind the Property. All covenants, conditions and restrictions set forth in this Agreement shall be equitable servitudes. All of the easements, covenants, conditions and restrictions set forth in this Agreement shall benefit and be binding upon each Party and their respective heirs, successors and assigns and shall create reciprocal rights and obligations, and privity of contract and estate between and among, the Parties and their respective heirs, successors and assigns. Upon the recordation in the Official Records of the county in which the Property is located of the conveyance of fee title to a portion of the SDG&E Property, SDG&E shall thereafter be relieved from all further obligations, duties and liabilities under this Agreement accruing after the date of such transfer with respect to the portion of the SDG&E Property conveyed, and its transferee shall thereafter be a Party hereunder as SDG&E's successor and assign with respect to the Property conveyed. SDG&E shall provide to all then current Property owners written notice of the transfer. Any Party may grant to any contractors, suppliers, representatives or agents of such Party rights in the Property, easements and other rights of such Party granted hereunder. No Permittee of a Party shall acquire any rights of a Party hereunder, except to the extent such Party's rights are expressly assigned to such Permittee and such Permittee expressly assumes in writing the obligations, duties and liabilities of such Party under this Agreement accruing from and after the date of assignment. In no event shall the consent or approval of any Permittee be required in connection with, or as a condition to, any amendment, modification or termination of this Agreement.

14.
RIGHTS OF LENDERS

14.1 Priority of Lien of Mortgage. This Agreement shall be and remain senior in priority to all Mortgages hereafter executed upon the Property or any portion thereof; provided, however, that no breach of the covenants, conditions or restrictions herein contained shall affect, impair, defeat or render invalid the lien, charge or priority of any Mortgage made in good faith and for value which encumbers any portion of the Property. Any Mortgagee or other future

owner whose title to any portion of the Property is derived through foreclosure, trustee's sale, or deed in lieu of foreclosure, shall take title to such portion of the Property subject to, and shall be bound by, all the covenants, conditions and restrictions set forth in this Agreement.

14.2 Notice of Default. Each Mortgagee, upon delivery of a written request for such notification with the then owners of the Property, shall be entitled to written notification of any default in the performance of the obligations under this Agreement of the Party with respect to which such Mortgagee holds a Mortgage concurrently with written notification of default to such Party. If such default has not been cured within thirty (30) days after written notice thereof has been given to such Party, such Mortgagee shall thereafter have the right to cure such default on behalf of its Party within the thirty (30) day period immediately following the expiration of the applicable cure period allowed to such Party plus, if the nature of the particular default reasonably requires more than thirty (30) days to cure, such additional time as shall be reasonably necessary if cure is commenced within such thirty (30) day period and diligently prosecuted thereafter to completion.

14.3 Curing Defaults. Except as otherwise provided herein, a Mortgagee or the immediate transferee of such Mortgagee, who acquires title by judicial foreclosure, a deed in lieu of foreclosure, trustee sale, or otherwise, shall not be obligated to cure any breach of the provisions of this Agreement which occurred before such Mortgagee or transferee acquired title if (i) such breach is noncurable or of a type which is not feasible to cure, and (ii) such Mortgagee did not have notice of such a breach at the time it acquired its lien or security interest in the Property.

14.4 Conflicts. In the event of any conflict between any of the provisions of this Section 14 and any of the other provisions of this Agreement, the provisions of this Section 14 shall control.

15.

MISCELLANEOUS PROVISIONS

15.1 Constructive Notice and Acceptance. Every Person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and provision contained in this Agreement, whether or not any reference to this Agreement is contained in the instrument by which such Person acquired an interest in the Property.

15.2 Notices. Except as otherwise provided herein, all notices, requests, demands, waivers, consents, billings, and other communications hereunder shall be in writing, shall be delivered either in person, by telegraphic, facsimile or other electronic means, by overnight air courier or by mail, and shall be deemed to have been duly given and to have become effective (a) upon receipt if delivered in person or by telegraphic, facsimile or other electronic means, (b) one business day after having been delivered to an air courier for overnight delivery or (c) three business days after having been deposited in the U.S. mails as certified or registered mail, return receipt requested, all fees prepaid, directed to the parties or their permitted assignees at the following addresses (or at such other address as shall be given in writing by a party hereto):

If to SDG&E, addressed to:

San Diego Gas & Electric Company
101 Ash Street
San Diego, California 92112
Attn: Bruce Williams
Facsimile: (619) 696-4027

with a copy to each counsel for SDG&E:

San Diego Gas & Electric Company
101 Ash Street
San Diego, California 92112
Attn: Michael Thorp, Esq.
Facsimile: (619) 699-5027

Latham & Watkins LLP
633 West Fifth Street, Suite 4000
Los Angeles, California 90071
Attn: David B. Rogers, Esq.
Facsimile: (213) 891-8763

If to Plant Owner, addressed to:

Dynergy Power Corp.
1000 Louisiana, Suite 5800
Houston, TX 77002-5050
Attn: General Counsel
Facsimile: (713) 767-8508

NRG Energy, Inc.
1221 Nicollet Mall, Suite 700
Minneapolis, MN 55403
Attn: President, North American Development
Facsimile: (612) 373-5430

with a copy to each counsel for Plant Owner:

Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, NW
Washington, DC 20005
Attn: Erica A. Ward, Esq.
Facsimile: (202) 393-5760

15.3 **No Waiver**. The failure of a Party to insist, in any one or more instances, on performance of any of the terms, covenants and conditions of this Agreement shall not be

construed as a waiver or relinquishment of any rights granted hereunder or of the future performance of any such term, covenant or condition, but the obligations of the Parties with respect thereto shall continue in full force and effect. No waiver of any provision or condition of this Agreement by a Party shall be valid unless in writing signed by such Party or operational by the terms of this Agreement. A waiver by one Party of the performance of any covenant, condition, representation or warranty of the other Party shall not invalidate this Agreement, nor shall such waiver be construed as a waiver of any other covenant, condition, representation or warranty. A waiver by any Party of the time for performing any act shall not constitute a waiver of the time for performing any other act or the time for performing an identical act required to be performed at a later time.

15.4 Headings. Section headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.

15.5 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be valid, binding and enforceable under applicable law, but if any provision of this Agreement is held to be invalid, void (or voidable) or unenforceable under applicable Laws, such provision shall be ineffective only to the extent held to be invalid, void (or voidable) or unenforceable, without affecting the remainder of such provision or the remaining provisions of this Agreement.

15.6 Estoppels. Within thirty (30) days following a request in writing by a Party, the other Party shall execute and deliver to any prospective purchaser or Mortgagee of the requesting Party's Property an estoppel certificate confirming that (i) this Agreement is in full force and effect, and has not been modified or amended (or stating any such modifications or amendments), and (ii) to the best knowledge of the certifying Party, there are no existing uncured defaults by any Party under this Agreement (or if any default exists, a description of the default).

15.7 Cumulative Remedies. Each remedy provided for in this Agreement shall be cumulative and not exclusive. The failure to exercise any remedy provided for in this Agreement shall not constitute a waiver of such remedy or of any other remedy provided herein or therein.

15.8 Attorneys' Fees and Costs. Subject to the provisions of Section 13, in any litigation or other proceeding relating to this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees.

15.9 Approvals. In the event that a Party shall be requested in writing to provide its approval or consent to a matter described in this Agreement, and such Party shall fail to respond to such request in writing within sixty (60) days following any such request which makes reference to the provisions of this Section 15.9, then such Party shall be deemed to have approved, or consented to, the matter as to which its approval or consent was requested.

15.10 Amendments. Any amendments or modifications of this Agreement shall be made only in a writing executed by all Parties; and no such amendments shall be effective as against any Mortgagee, or any Mortgagee's successors or assignees, including any purchaser at foreclosure or purchaser by deed in lieu of foreclosure, without the written consent of all Mortgagees at the time of execution thereof.

15.11 Governing Law. This Agreement shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of California applicable to contracts made and to be performed wholly within the State of California by residents of the State of California, provided that federal law, including the Federal Arbitration Act, shall govern all issues concerning the validity, enforceability and interpretation or the arbitration provision set forth in Section 12. Any action or proceeding arising under this Agreement shall be adjudicated in San Diego, California.

15.12 Entire Agreement. This Agreement (including the exhibits hereto) contains the entire understanding between the Parties concerning the subject matter hereof and, except as expressly provided for herein, supersede all prior understandings and agreements, whether oral or written, between them with respect to the subject matter hereof.

15.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.14 Exhibits. All exhibits attached to this Agreement are incorporated herein by this reference.

15.15 No Third Party Rights. The Parties do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement or of any duty, covenant, obligation or understanding established under this Agreement, except insofar as such third party may be an Indemnitee hereunder. Notwithstanding the foregoing, Plant Owner may grant to its lenders a security interest in its rights under this Agreement or assign (after Closing) its rights hereunder to any Person or Persons acquiring the Plant; provided, that neither the grant of any such interest, nor the foreclosure of any such interest, shall in any way release, reduce or diminish the obligations of Plant Owner to SDG&E hereunder.

15.16 Further Assurances. Each Party agrees that it will, at any time and from time to time, upon the written request of the other Party, execute and deliver such further documents (in recordable form, if appropriate under the circumstances) and do such further acts and things, as the requesting Party may reasonably request in order to effect the purposes of this Agreement.

15.17 Exceptions to Easements. The easements in this Agreement are granted subject to (i) taxes and assessments not yet due and payable; (ii) all covenants, conditions, restrictions, reservations, rights, rights of way, easements, encumbrances, leases, liens and other title matters of record; (iii) all agreements, contracts, easements, leases, Licenses, covenants, conditions, restrictions and other matters affecting title which are not of record, but which have been disclosed by SDG&E to Plant Owner in writing; and (iv) all other matters which would be disclosed by an inspection or accurate survey.

15.18 Evidence of Termination of Easements. Plant Owner covenants for itself, its successors and assigns that should Plant Owner discontinue use of any of the easements granted herein, then said easement shall terminate and Plant Owner, upon receipt of written request of SDG&E, shall execute and deliver to such other Party a good and sufficient quitclaim deed to all rights therein.

IN WITNESS WHEREOF, the Parties hereto have caused this Easement Agreement to be executed by their respective duly authorized officers as of the date first above written.

CABRILLO POWER I LLC

By: _____
Name: David Lloyd
Title: Secretary

SAN DIEGO GAS & ELECTRIC COMPANY

By: _____
Name: Margot Kyd
Title: Senior Vice President

STATE OF CALIFORNIA)

)ss.

COUNTY OF San Diego

On June 6, 2003 before me, Kayla Carol, Notary

personally appeared Margot Kyd

personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~) and that by ~~his~~/her/~~their~~ signature(~~s~~) on the Instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Kayla Carol

(This area for official notarial seal)

KAYLA CAROL
COMM. #1280016
NOTARY PUBLIC • CALIFORNIA
SAN DIEGO COUNTY
Commission Expires Nov. 8, 2004

STATE OF CALIFORNIA)

)ss.

COUNTY OF San Diego)

On 7/11/03 before me, J. C. Demas

personally appeared David Lloyd

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the Instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

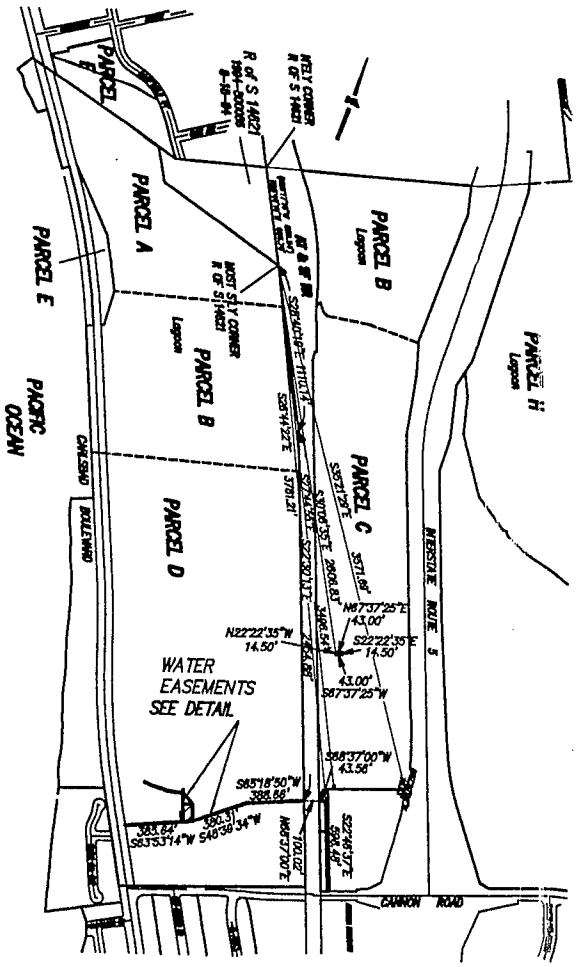
Signature

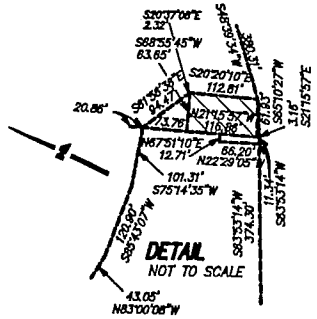
(This area for official notarial seal)

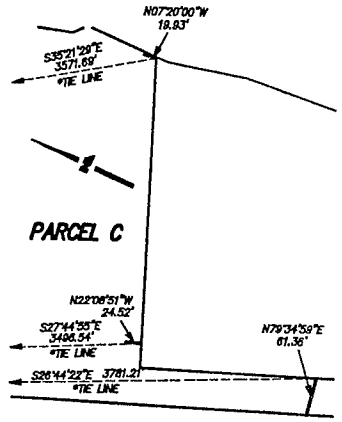
J. C. DEMAS
COMM. #1234570
NOTARY PUBLIC • CALIFORNIA
SAN DIEGO COUNTY
Commission Expires Sept. 13, 2003

EXHIBIT A

SURVEY MAP OF EASEMENTS







DETAIL OF DRAINAGE FACILITIES
NOT TO SCALE

*TIE LINES ARE TO MOST S'LY CORNER R OF S 14621

NOTES:

GENERAL LOCATION OF ALL DRAINAGE FACILITIES AND WATER FACILITIES REPORTED TO DATE ARE LOCATED AND SHOWN ON THIS EXHIBIT

SOME OF THE FACILITIES SHOWN ON THIS EXHIBIT HAVE BEEN PLOTTED PER AS-BUILT DRAWINGS AND NOT PHYSICALLY LOCATED IN THE FIELD.

BEARINGS AND DISTANCES TO FOLLOW FOR PARCELS G AND H

11895

THIS PLAT WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE LAND SURVEYORS ACT ON NOVEMBER 23, 1998

RONALD C. PARKER

LICENSED LAND SURVEYOR RONALD C. PARKER No. 4312 EXP. 6-30-00 STATE OF CALIFORNIA

EXHIBIT "A" – ENCINA
EASEMENT AGREEMENT – SDG&E OPTION

SHEET 1 OF 1 SHEET

SAN DIEGO GAS & ELECTRIC SAN DIEGO, CALIFORNIA	ORIGINATOR: SKG	OK TO INSTALL:	PROJECT NO.
EXHIBIT A TO EASEMENT AGREEMENT POWER PLANT AUCTION (ENCINA) CARLSBAD	SURVEYED BY: NOLTE\SH	R/W OK:	CONST. NO. 8060004
	DRAWN BY: NOLTE\LAP	DATE:	
	DATE: 11-23-98	THOS. BROS. 1126-F2	DRAWING NO.
	SCALE: 1"=800'		

NO.	SUPPLEMENTS	DATE:	BY	APP'D

NOLTE: \SDGE\SD970046\00\CADD\970046R4.DWG

EXHIBIT 2.1

WATER LINES AND FIRE SAFETY TANKS

PARCEL 1:

Commencing at the most Southerly corner of the land surveyed and shown on Record of Survey Map No. 14621, filed August 18, 1994 at File No. 1994-500086 in the Office of the County Recorder of said County of San Diego; said most Southerly corner bears South 28° 40' 19" East, 656.70 feet (rec. South 29° 17' 10" East, 656.54 feet) from the Northeast corner thereof; thence along the Westerly right of way line of the AT&SF Railroad, South 28° 40' 19" East, 1110.14 feet and South 22° 30' 13" East, 2454.88 feet to a point herein designated Point "A"; thence South 65° 18' 50" West, 388.66 feet; thence South 48° 39' 34" West, 380.31 feet to the TRUE POINT OF BEGINNING; thence South 65° 10' 27" West, 61.93 feet to a point herein designated Point "B"; thence North 21° 15' 57" West, 116.86 feet to a point herein designated Point "C"; thence North 68° 55' 45" East, 63.65 feet to a point herein designated Point "D"; thence South 20° 20' 10" East, 112.81 feet to the TRUE POINT OF BEGINNING.

ALSO: Those certain strips of land 6.00 feet in width, the center line of said strips are described as follows:

1. Beginning at said Point "A"; thence South 65° 18' 50" West, 388.66 feet; thence South 48° 39' 34" West, 380.31 feet.

2. Beginning at said Point "A"; thence North 68° 37' 00" East, 143.58 feet; thence South 22° 46' 37" East, 598.48 feet.

3. Beginning at said Point "B"; thence South 21° 15' 57" East, 3.16 feet; South 63° 53' 14" West, 11.34 feet to a point herein designated Point "E"; thence continuing South 63° 53' 14" West, 374.30 feet to a point in the Easterly line of Carlsbad Boulevard.

4. Beginning at said Point "E"; thence North 22° 29' 05" West, 66.20 feet; thence North 67° 51' 10" East, 12.71 feet.

5. Beginning at said Point "C"; thence North 21° 15' 57" West, 94.62 feet.

6. Beginning at said Point "D"; thence North 61° 56' 38" West, 94.47 feet; thence South 75° 14' 35" West, 101.31 feet; thence South 85° 43' 07" West, 120.90 feet; thence North 83° 00' 08" West, 43.05 feet.

PARCEL 2:

Commencing at the most Southerly corner of the land surveyed and shown on Record of Survey Map No. 14621, filed August 18, 1994 at File No. 1994-500086 in the Office of the County Recorder of said County of San Diego; said most Southerly corner bears South 28° 40' 19" East, 656.70 feet (rec. South 29° 17' 10" East, 656.54 feet) from the Northeast corner thereof; thence along the Westerly right of way line of the AT&SF Railroad, South 28° 40' 19" East, 1110.14 feet and South 30° 06' 35" East, 2606.83 feet to the TRUE POINT OF BEGINNING; thence North 67° 37' 25" East, 43.00 feet; thence South 22° 22' 35" East, 14.50 feet; thence South 67° 37' 25" West, 43.00 feet; thence North 22° 22' 35" West, 14.50 feet to the TRUE POINT OF BEGINNING.

EXHIBIT 2.2

DRAINAGE

Commencing at the most Southerly corner of the land surveyed and shown on Record of Survey Map No. 14621, filed August 18, 1994 at File No. 1994-500086 in the Office of the County Recorder of said County of San Diego; said most Southerly corner bears South 28° 40' 19" East, 656.70 feet (rec. South 29° 17' 10" East, 656.54 feet) from the Northeast corner thereof; said most Southerly corner herein designated Point "A"; thence South 30° 06' 35" East, 2606.83 feet to the TRUE POINT OF BEGINNING; thence North 67° 37' 25" East, 43.00 feet; thence South 22° 22' 35" East, 14.50 feet; thence South 67° 37' 25" West, 43.00 feet; thence North 22° 22' 35" West, 14.50 feet to the TRUE POINT OF BEGINNING.

ALSO: Those certain strips of land 12.00 feet in width, the center line of said strips are more particularly described as follows:

1. Commencing at said Point "A"; thence South 35° 21' 29" East, 3571.69 feet to the TRUE POINT OF BEGINNING of the center line herein described; thence North 07° 20' 00" West, 19.93 feet.

2. Commencing at said Point "A"; thence South 27° 44' 55" East, 3496.54 feet to the TRUE POINT OF BEGINNING of the center line herein described; thence North 22° 08' 51" West, 24.52 feet.

3. Commencing at said Point "A"; thence South 26° 44' 22" East, 3781.21 feet to the TRUE POINT OF BEGINNING of the center line herein described; thence South 79° 34' 59" West, 61.36 feet.

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Visual Resources (104 – 111)

Background

In order to assess the visual effects of the project, the city of Carlsbad has requested placement of story poles on site to facilitate a clearer understanding of the heights and configuration of the facility components, and to supplement the AFC visual simulations.

Data Request

104. Please erect story poles and/or balloons on the current property (between storage tanks 6 and 7) to indicate, to the extent feasible, the tops of the proposed exhaust stacks and corners of the HRSGs. The tops of the poles should be clearly marked with flags or inflatable balloons at their apex, in a bright color to be readily visible and photographable. Balloons should be of a bright color and/or marked with a flag to be readily visible.

Response: The Applicant will make arrangements to erect story poles and/or balloons per this Data Request. To ensure the story poles and/or balloons accurately reflect the key components of the CECP noted in this Data Request, it is necessary for a survey team to mark the locations where the story poles and/or balloons will be set, and that the heights of the story poles and/or balloons accurately reflect the height of key components of the CECP. To ensure that the story poles and/or balloons do not represent a potential safety hazard, the Applicant will coordinate with the City and other agencies as applicable.

Based on the above logistic and coordination requirements, it may take several weeks to make the necessary arrangements to erect the story poles and/or balloons. The Applicant will coordinate with CEC staff regarding the timing for this exercise so that CEC staff and others are informed about the schedule so that CEC staff and others can make arrangements to travel to the site to view the erected story poles and/or balloons. So as not to create a safety hazard or nuisance, the Applicant will erect the story poles and/or balloons for one day only. The story poles and/or balloons will be erected first thing in the morning on the scheduled day, and will be removed in the late afternoon of the same day. The Applicant will coordinate with the CEC staff and the City of Carlsbad staff to provide public notice of this one day event so that CEC staff, City staff and the public that are interested in viewing the story poles and/or balloons can do so.

Background

Although staff recognizes that future effects of the Caltrans I-5 Widening project cannot be known with certainty at this time, and that those effects would receive environmental review under that project, concern remains about the potential for the future (cumulative) effects of that project to affect existing screening at the CECP site.

Data Request

105. In order to better understand the likelihood and extent of these cumulative impacts on the existing site screening, please provide an accurate overlay of the relevant portions of Computer Aided Design (CAD) layouts for the Caltrans I-5 Widening Alternatives 1, 2 and 3, over the CAD layout of the CECP site plan, including rectified aerial photograph background.

Response: To respond to this Data Request, the Applicant contacted Caltrans to obtain CAD drawing for the layouts for Caltrans' conceptual options for the proposed I-5 widening project adjacent to the CECP site. Alternatives 1, 2 and 3 referenced in this Data Request were hard copy drawings attached to a June 2006 memorandum prepared by City of Carlsbad for the public that was posted on the City's website. This memorandum with hard copies of the drawings was provided by the Applicant as Attachment DR67a-1 as part of the Applicant's response to the CEC Staff's Data Request 67 that was docketed with the CEC in December 2007 as part of Data Response, Set 1A.

After conferring with Caltrans, it was determined that the drawing of Alternatives 1, 2 and 3 attached to the City's 2006 memorandum are outdated. Caltrans had previously provided the Applicant with updated CAD files for four alternative conceptual alignments. For the purpose of responding to this data request, the Applicant used the updated CAD files from Caltrans which includes four alternative conceptual alignments.

As requested by this Data Request, Figures DR105-1, DR105-2, DR105-3 and DR105-4 have been prepared by the Applicant to represent each of the four alternative conceptual alignments proposed by Caltrans. The Applicant can attest to the relative accuracy of the aerial photograph used as the base for these figures, and to the location of the CECP plot plan onto this aerial photograph. However, while the Applicant has used its best professional judgment in superimposing the available Caltrans' CAD files that depict the conceptual options for the proposed I-5 widening alignment alternatives onto the aerial photograph, the Applicant cannot attest to the accuracy of the Caltrans's CAD drawings or to the accuracy of the placement of the conceptual I-5 widening alignment alternatives onto the aerial photograph as there was no survey data accompanying the Caltrans' CAD files. Therefore, Figures DR105-1, DR105-2, DR105-3 and DR105-4 should be considered conceptual representations only.

In addition, since Caltrans has not completed its planning, environmental analysis and engineering for the I-5 widening project, and as the project is still in its conceptual planning phase, the alignments shown of the attached figures do not represent a final project design by Caltrans.

As discussed in the Applicant's response to CEC Staff's Data Request 67 (docketed by the Applicant in December 2007, a CEQA/NEPA environmental review of the Caltrans I-5 widening project has yet to be implemented, but it is expected that it will include a detailed visual impact analysis of the I-5 widening alternatives. The City of Carlsbad, in a June 2006 memorandum from the Deputy City Transportation

Engineering (see Attachment DR67-3 in the Applicant's December 2007 docketed Data Responses) summarized the key goals and objectives of the City regarding the I-5 widening project. In that memorandum, the City stated its major environmental goals and objectives as (Johnson, 2006):

- "Respect existing visual resources and minimize negative impacts.
- Minimize ROW expansion
- Maximize the visual experience for freeway users.
- Minimize grading."

Based on these City environmental goals and objectives for the I-5 widening project and in accordance with the requirements of CEQA, NEPA and the Federal Highways Administration, it is expected that the detailed visual analysis of the I-5 widening project by Caltrans will include a detailed, site-specific analysis of potential visual impacts of the potential loss of the vegetative perimeter berm along the eastern CECP property boundary as a result of Caltrans proposed I-5 widening project, as well as other areas along the I-5 corridor. In order to reduce the potential visual effects associated with any vegetation removal that would be required for the I-5 widening project, the visual impact study conducted by Caltrans in the EIR/EIS for the I-5 widening project should also include specific visual resource mitigation measures such as preservation of significant existing visual screening, such as the preservation of the trees and vegetation on the perimeter vegetative berm along the eastern and northern boundary of the CECP site. As necessary the mitigation measures for the Caltrans I-5 widening project should included additional tree planting and revegetation, slope recontouring and/or terraced landscaping. The Applicant will coordinate with and cooperate with the City of Carlsbad during the I-5 widening project environmental review process to provide input to Caltrans regarding feasible and effective aesthetic mitigation with respect to preserving the visual screening of the CECP site, and as necessary the planting of new landscaping on the perimeter vegetative berm on the eastern and northern boundary of the CECP site. The Applicant is also willing to participate in the development of the I-5 widening options to determine the feasibility of the installation and maintenance of new landscaping for screening on the CECP site.

Follow up conversations with Cal Trans and the most recent projections are shown in four scenarios, Figure DR105-1, DR105-2, DR105-3 and DR105-4.

Background

The city of Carlsbad has requested an (arborist's) assessment of health and probable longevity of existing trees bounding the CECP site, and the applicant responded by commissioning an appropriate study. The study's conclusion included a recommendation for the removal of several dead trees; their replacement, and the planting of additional trees in key areas on the north, west and south sides of the power plant property to augment existing vegetation and lower CECP's visual impacts.

Data Request

106. Please develop an appropriate and complete tree replacement and addition plan that reflects the arborist's recommendations following his assessment of existing trees surrounding the project site.

Response: To respond to Data Responses 106, 107 and 108, the Applicant has prepared a comprehensive landscape plan that is provided in Attachment DR107-1. The conceptual landscape plan was prepared in coordination with the Project's arborist (Dudek). As shown, the conceptual landscape plan includes tree replacement and additions as recommended by the Project's arborist.

Background

The AFC several times refers to a proposed landscape plan as the means by which several local LORS requirements and Energy Commission standards will be met by the applicant following CECP's construction.

Data Request

107. Please provide a comprehensive conceptual landscape plan and narrative that more fully depicts and explains the applicant's intentions in regard to landscaping for the CECP. Please provide:

    a. specific examples of tree and vegetation types proposed for different areas, their number, container sizes and growth rates

    b. irrigation system planned, type and source of irrigation water

    c. number of proposed staff for maintenance.

Response: To respond to Data Responses 106, 107 and 108, the Applicant has prepared a comprehensive landscape plan that is provided in Attachment DR107-1. The conceptual landscape plan was prepared in coordination with the Project's arborist (Dudek). In response to this data request, the conceptual landscape plan includes tree replacement and additions as recommended by the Project's arborist.

The landscape screening concept is designed to enhance the existing landscape berm and to supplement existing screening of the proposed project. The landscape concept also includes installing a variety of trees and large shrubs on a new berm located north of the rail corridor.

The first of the three landscape concept plan sheets (L-1) highlights the existing landscape screening situated in proximity to the project. Sheet L-2 (DR107b) illustrates the overall landscape concept plan, including a schedule of recommended tree and vegetation types with container size, growth rates and number of plants to be installed. Notes regarding arborist recommendations and landscape irrigation and maintenance are also included. Sheet L-3 (DR107c) depicts detailed landscape screening plans and sections. As noted on sheet L-2, an irrigation system using reclaimed or other non-potable water source will be installed. In addition, a landscape contractor to provide periodic maintenance including removal and replacement of dead plant material and upkeep of irrigation system

Data Request

108. Please clarify the extent to which the proposed spoil berms on the site's western boundary can be planted for screening purposes. In your response, please address the following items:

    a. Whether planting the berm constrains the location of the proposed transmission line, and if so, in what ways.

    b. Whether there are portions of the berms that are not constrained by the transmission line.

Response: As shown in the conceptual landscape plan included as Attachment DR107-1, while certain areas of the proposed spoils berm will be somewhat constrained by the proposed overhead electrical take-off lines connecting the CECP to the existing SDG&E substations west of the railroad tracks, these areas can still be planted with low to mid-level plant species to provide visual screening.

Also as shown on the conceptual landscape plan, there are areas of the proposed spoils berm with no to little constraints and the conceptual landscape plan takes these areas into consideration when selecting the tree and vegetation species to use to provide visual screening.

Background

Applicant's Data Response 1A Figure DR68-1 describes a proposed 800-linear foot retaining wall, up to 12 feet in height, along the eastern side of the railroad right-of-way.

Data Request

109. a. Please provide available information on the referenced wall, including the project for which the proposed wall is included.

Response: The Citywide Trails Map (see Figure DR68-1 that was docketed with the CEC in December 2007 as part of Data Response, Set 1A) calls for the development of a Coastal Rail Trail (CRT) in this area. The Citywide Trail Map was prepared by the City. Figure DR68-1 shows the currently designated Coastal Rail Trail along the east side of the railroad right-of way, it is important to noted that this is a preliminary designated route only and that, in accordance with Precise Development Plan-002 (PDP-002), prior to occupancy of the Desalination Plant, an easement for the Coastal Rail Trail be dedicated within the PDP boundary that is mutually acceptable to the City of Carlsbad and the land owner (i.e., Cabrillo Power I LLC) or its successor. Cabrillo Power I LLC will work with the City of Carlsbad to determine the best location for the CRT in the vicinity of the Encina Power Station; however, it may not necessarily be along the railroad right-of-way.

The only information the Applicant has regarding the retaining wall is what is shown on the CTR map. If such a retaining wall were to be constructed at some point in the future, it would be a City project. The retaining wall is not a part of the CECP project and is not required for the CECP project. The Applicant assumes that if the retaining wall is built it would be in conjunction with the construction of the CTR,

for which there is no specific timeline or project that has been programmed for the portion of the trail that could potential be located along the section of the rail line right-of-way that passes by the CECP site. As note above, the location of the CTR in the vicinity of the CECP project may not necessarily be along the railroad right-of-way.

b. Please discuss the potential effect of wall construction on existing trees and other existing landscape screening east of the railroad tracks.

Response: As part of the Applicant's response to CEC staff's Data Request 68 that was docketed in December 2007, the Applicant provided Figure DR68-3 that provides representative photographs along the rail line right-of-way as it passes by the CECP site. As shown on those photographs, depending on when and where the CTR is constructed, if the CTR follows a route along the railroad right-of-way by CECP, and if the retaining wall is determined by the City to be required, the retaining wall may eliminate some of the low-lying brush that is shown on the existing embankment along the eastside of the railroad right-of-way.

As note above in the conceptual landscape plan for the CECP included in response to Data Requests 106, 107 and 108, landscaping for the CECP will be included near the top of the embankment formed by the railroad right-of-way and on the proposed spoils berm. In addition, should the CTR be constructed along the railroad right-of-way by CECP at some point in the future, the Applicant would expect that the CTR project includes a landscape plan to replace any vegetation that is lost due to the CTR project.

Background

Applicant's City Figure DR 60-2, Conceptual Operation Lighting Plan, depicts several air traffic signal lights, including several on the site's western boundary, several within the Encina Power Station site, as well as within the proposed power plant area.

Data Request

110. Please describe these lights, including brightness, height and other detail (e.g. hoods, shields) and provide elevation drawings of proposed light poles.

Response: The CECP will incorporate permanent exterior lighting such that obtrusive light and glare from on-site light fixtures is minimized from off-site public viewing areas so long as worker safety is not compromised.

Enclosed are the following figures with typical details that can be expected to be used in detail design:

- Figure DR110-1 Emergency Lighting Fixture
- Figure DR110-1 HID (High Intensity Discharge) fixture for general area lighting
- Figure DR110-1 Wall Mounted general area lighting
- Figure DR110-1 Pendant Mount Low Bay Fixture
- Figure DR110-2 30-foot, pole-mounted fixture
- Figure DR110-2 Pole Mounted Luminaire Assembly At Roadway

These figures depict examples of typical exterior lighting that will be used in order to reduce glare and to reduce leaking lighting.. Detail design will include hooded lighting to focus the light on the areas requiring illumination, material selection to reduce reflected light, and consideration of the required level of illumination. Where feasible, exterior light fixtures will be hooded, directed downward or toward the area to be illuminated so that back scatter to the night time sky is minimized. The detail design package will establish design criteria for each lighting type, i.e., emergency, general area and personnel specific, and assigned to a specific plant area i.e., turbine, buildings, outdoor areas, etc. IES standards set levels of illumination based on these assignments. Life Safety codes will drive the illumination means, emergency lighting and marking of egress.

Table DR110-1 is a typical lighting requirement table that is used for final lighting layout.

TABLE DR110-1
Lighting Requirements for Outdoor Areas

Area	Foot Candles	Fixtures
Main Entrance	5	High Pressure Sodium (HPS) (Enclosed and Gasketed)
Roadways	1	HPS (Enclosed and Gasketed)
Parking Areas	2	HPS (Enclosed and Gasketed)
Switchyard – General	0.2	HPS (Enclosed and Gasketed)
Switchyard – Disconnects	2	HPS (Enclosed and Gasketed)
Tanks	1	HPS (Enclosed and Gasketed)
Cooling Tower	5	HPS (Enclosed and Gasketed)
Fuel Gas and Ammonia Areas (GT Units)	5	HPS (Enclosed and Gasketed)

Air Traffic Signal lighting will be added to tall structures as appropriate. Stack and T&D towers will be evaluated and appropriate lighting added for exceeding local height regulations.

Background

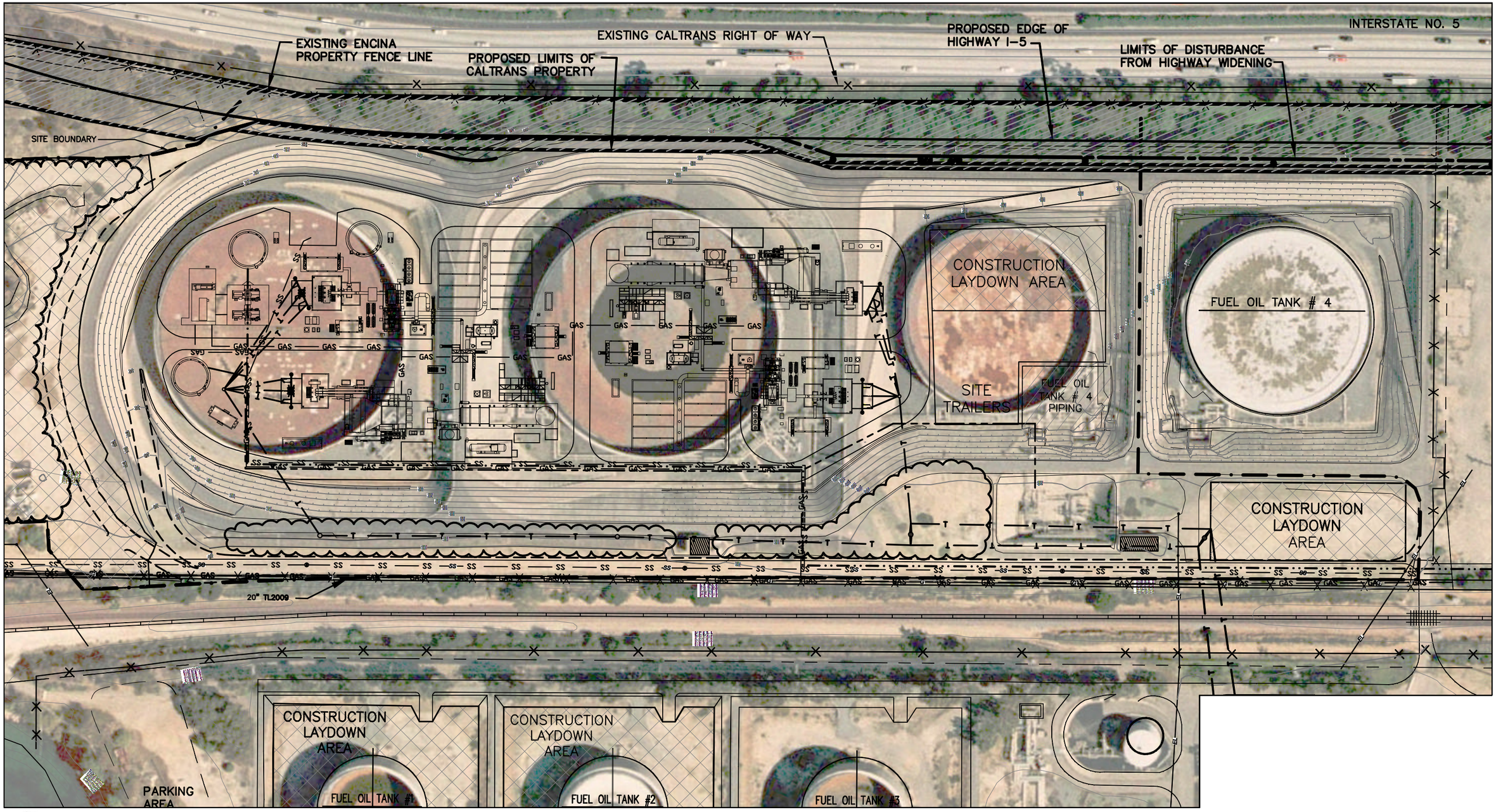
It appears possible that some taller portions of the proposed CECP, including the exhaust stacks, transmission poles and possibly the spoil berm and HRSGs, would be visible from Carlsbad Boulevard and the adjoining sidewalk. In order to evaluate the potential visibility and prominence of the project from this viewpoint (i.e., a new Key Observation Point), the city has requested that an additional visual simulation be prepared from Carlsbad Boulevard in the vicinity of the EPS outfall, looking eastward toward the proposed power plant.

Data Request

111 Please provide a visual simulation of the project at life size scale from the viewpoint described above.

Response: As requested, the visual simulation provided in Figure DR111-1 depicts the "before" and "after" view from near the EPS outfall looking eastward towards the proposed CECP site.

Figure DR111-1 depicts a "before" and "after" view of the proposed project as seen from the sidewalk on the west side of Carlsbad Boulevard near the Encina Power Station outfall. This perspective captures a view looking east and perpendicular to the roadway, toward the project. The existing view seen from this location encompasses roadway including median landscaping and wood slat fencing in the foreground with portions of existing Encina Power Station storage tanks and tree canopies seen in the background. The Figure DR111-1 visual simulation indicates that from this vantage point, intervening vegetation and existing structures will largely screen the CECP. The upper portion of a stack will appear above the existing tank seen near the center of the view. Portions of several transmission poles will also be seen near the left and center of the view. Although barely visible, minor parts of the top of the HRSGs may also be visible near the center of the view. A comparison of the Figure DR111-1 "before" and "after" views indicates that the project will not substantially alter the character of existing views experienced from this location.



Source: CALTRANS drawing 8_4 bar.dwg

FIGURE DR105-1
CALTRANS PROPOSED I-5 WIDENING
CONCEPTUAL ALIGNMENT ALTERNATIVE #1
CARLSBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

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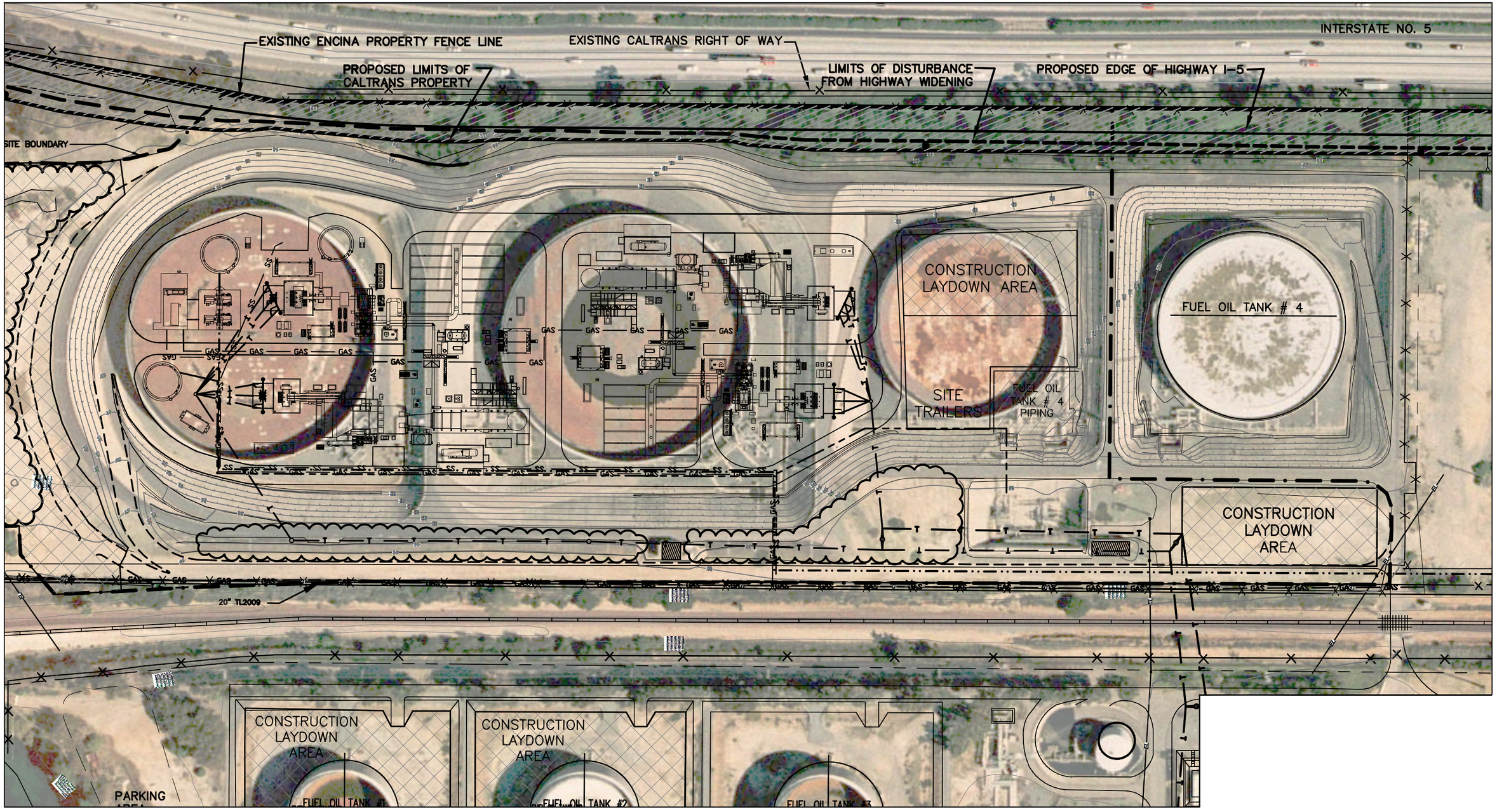
EY072007001SAC Figure_DR105-1.ai 03/18/08 afint



CALTRANS PROPOSED PROPERTY PURCHASE TO EXPAND RIGHT OF WAY

PLANT NORTH

ELEVATIONS SHOWN ARE MEAN SEA LEVEL
DATUM U.S.G.S. EQUAL ZERO
DESIGN HIGHEST TIDE ELEVATIONS + 5.0'

0 30 60 120 180 240

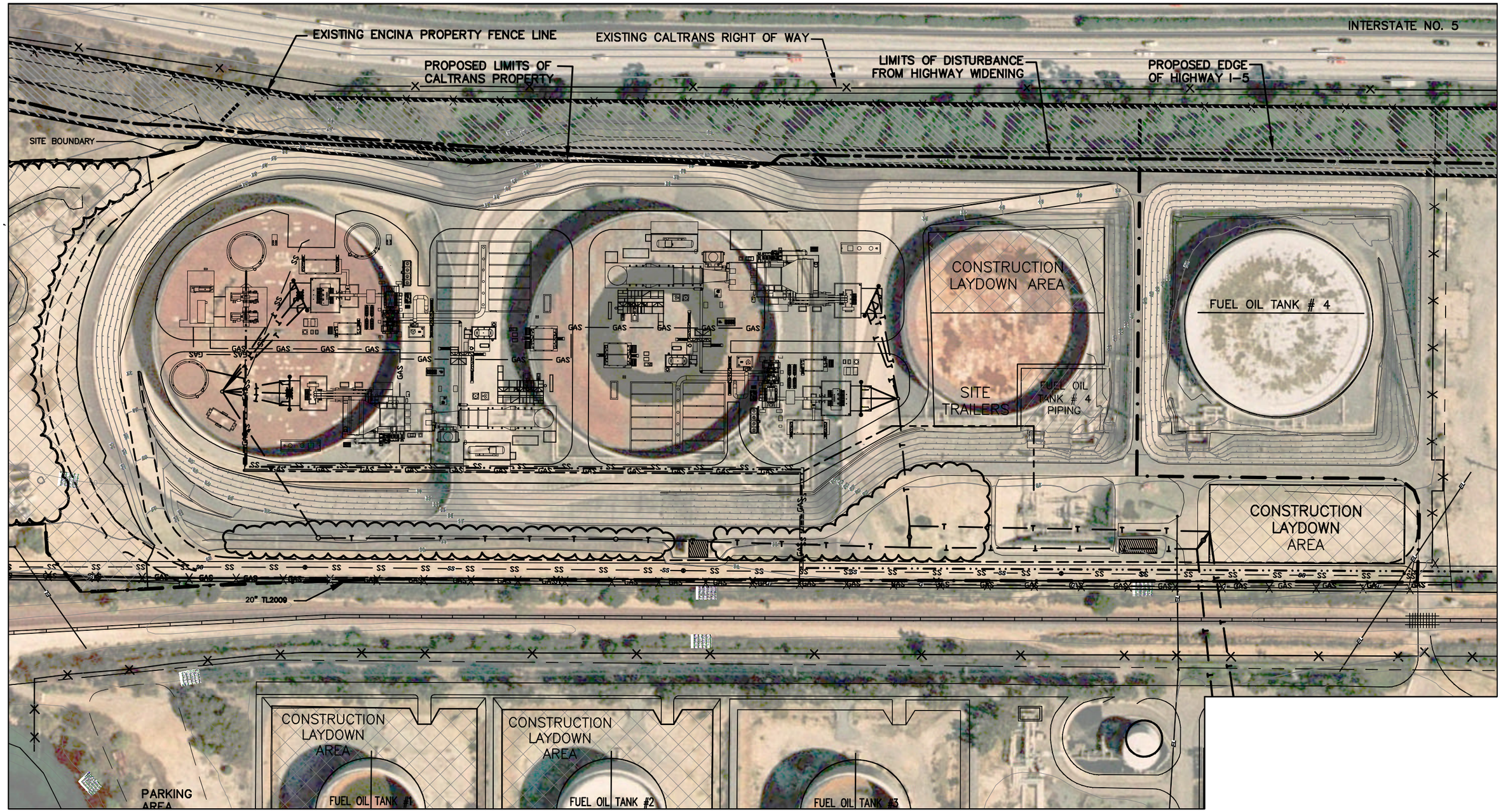
APPROXIMATE SCALE 1"=120'

Source: CALTRANS drawing 8_4 buf

FIGURE DR105-2
CALTRANS PROPOSED I-5 WIDENING
CONCEPTUAL ALIGNMENT ALTERNATIVE #2
CARLSBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

CH2MHILL

EY072007001SAC Figure_DR105-2.ai 03/18/08 afint



Source: CALTRANS drawing 10_4 bar.dwg

FIGURE DR105-3
CALTRANS PROPOSED I-5 WIDENING
CONCEPTUAL ALIGNMENT ALTERNATIVE #3
CARLSBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

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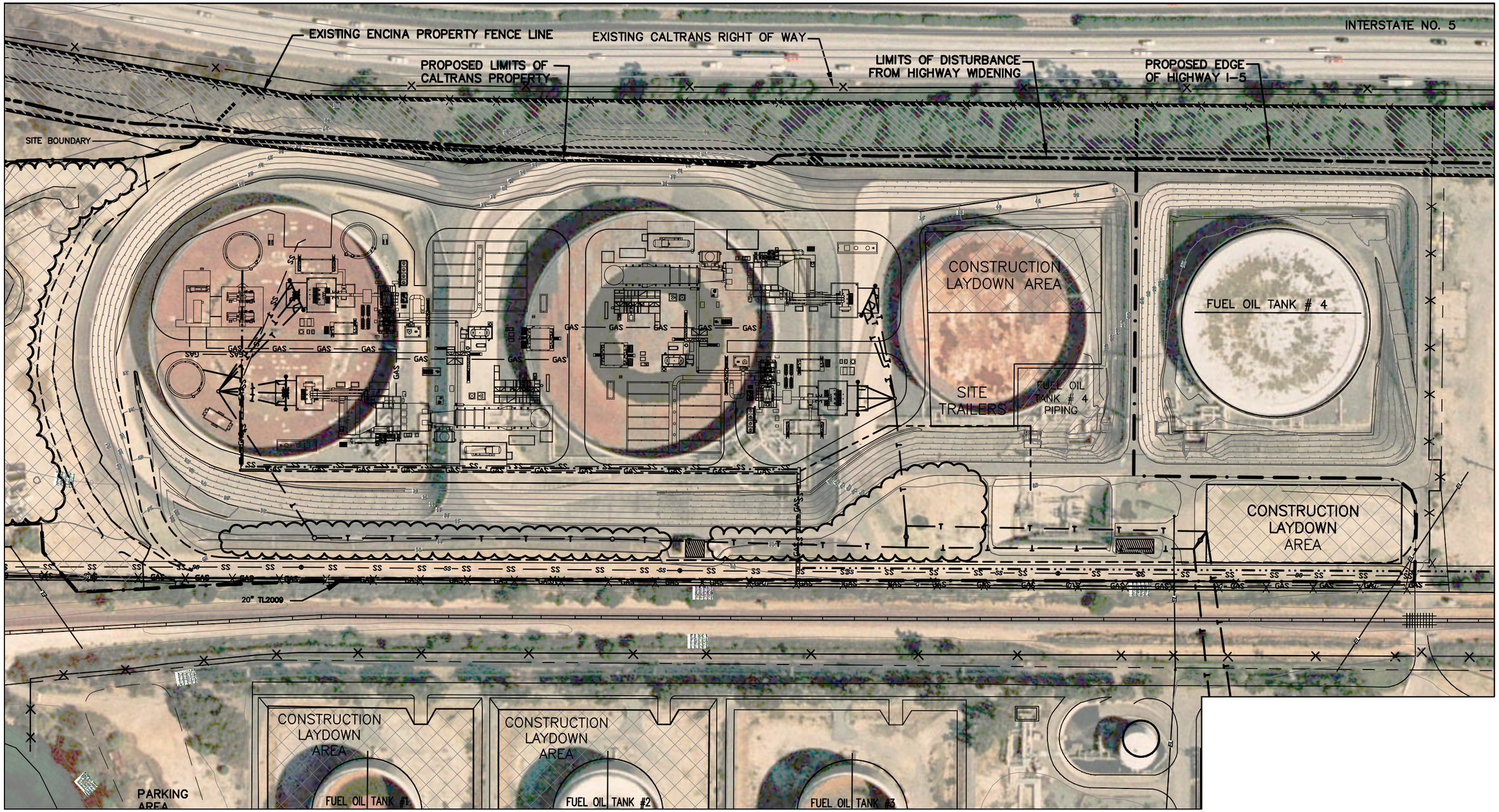
EY072007001SAC Figure_DR105-3.ai 03/18/08 afint



Source: CALTRANS drawing 10_4 buf.dwg

FIGURE DR105-4
CALTRANS PROPOSED I-5 WIDENING
CONCEPTUAL ALIGNMENT ALTERNATIVE #4
CARLSBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

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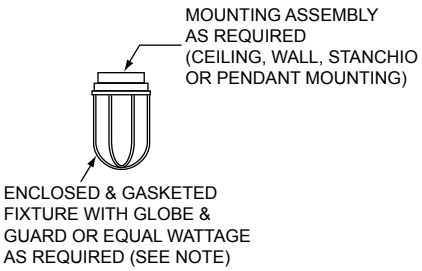
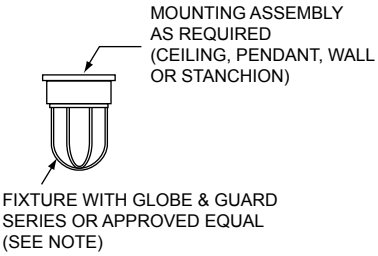
EY072007001SAC Figure_DR105-4.ai 03/18/08 afint



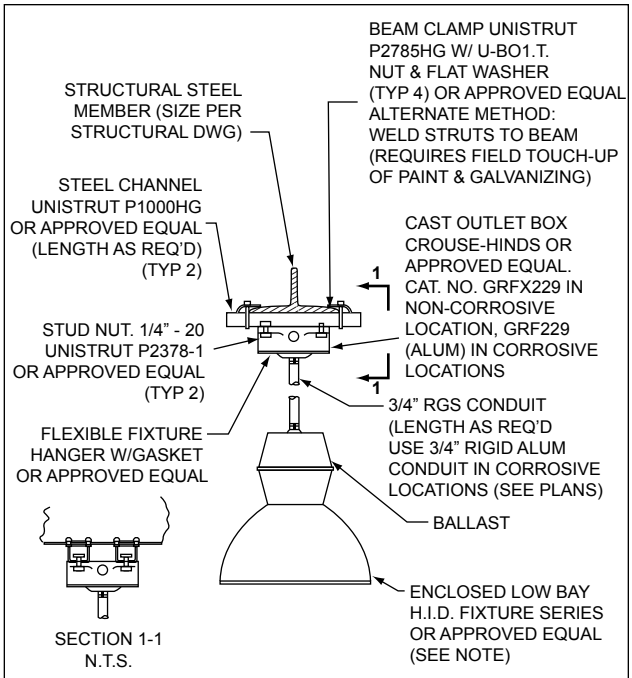
NOTE: REFER TO FIXTURE SCHEDULE & LOCATION TABLE FOR FIXTURE TYPE & MTG HEIGHT

DETAIL. EMERGENCY LIGHTING FIXTURE, INCANDESCENT (INDOORS OR OUTDOORS) N.T.S.



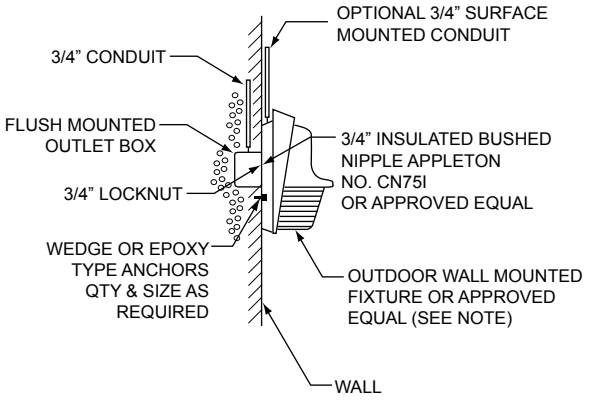
NOTE: REFER TO FIXTURE SCHEDULE & ELEVATION TABLE FOR FIXTURE TYPE & MTG HEIGHT

DETAIL. H.I.D. FIXTURE N.T.S.



NOTE: REFER TO FIXTURE SCHEDULE & ELEVATION TABLE FOR FIXTURE TYPE & MTG HEIGHT

DETAIL. PENDANT MOUNT LOW BAY FIXTURE N.T.S.



NOTE: REFER TO FIXTURE SCHEDULE & LOCATION TABLE FOR FIXTURE TYPE & MTG HEIGHT

DETAIL. WALL MOUNTED AREA FIXTURE N.T.S.

FIGURE DR110-1
TYPICAL DETAILS - LIGHTING FIXTURES

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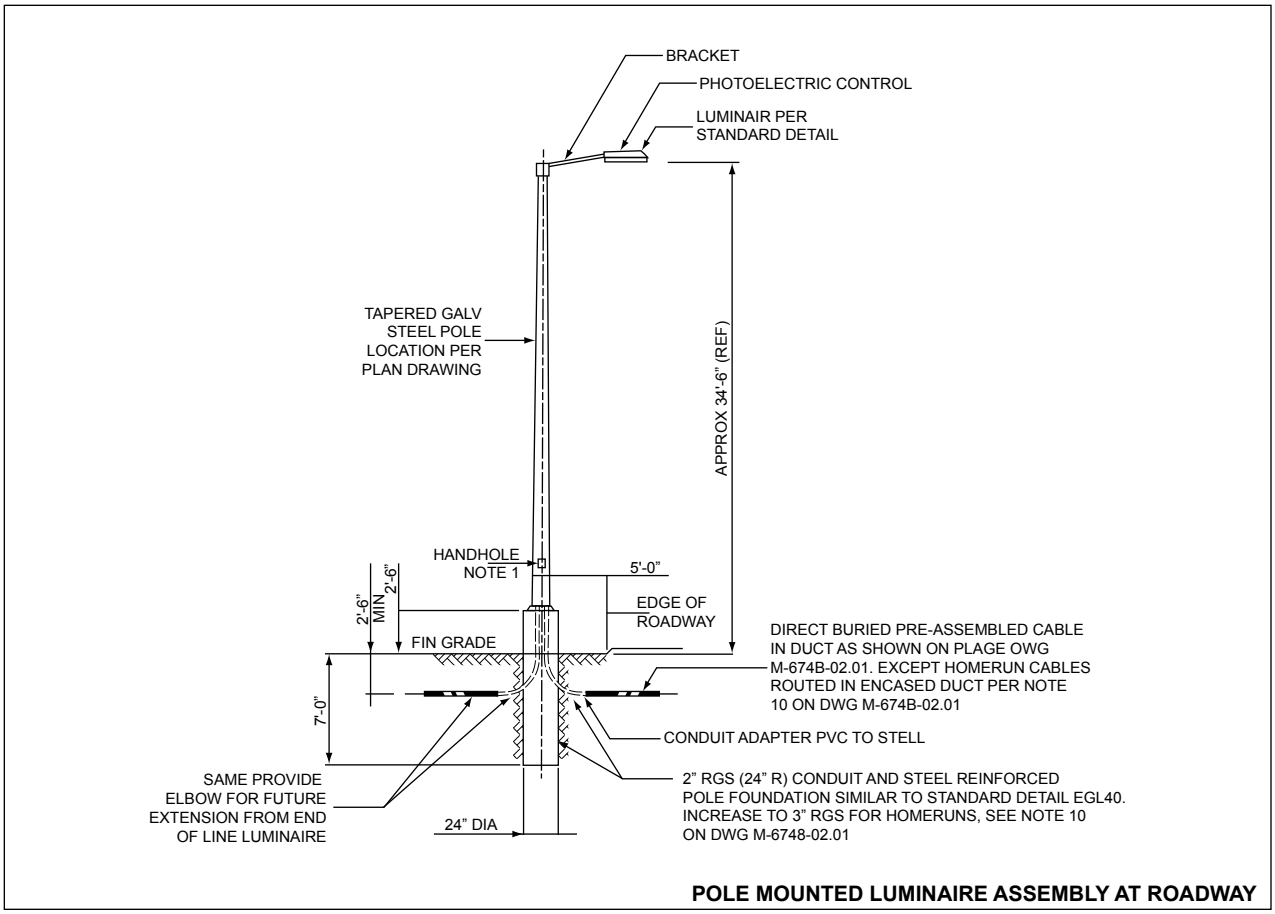
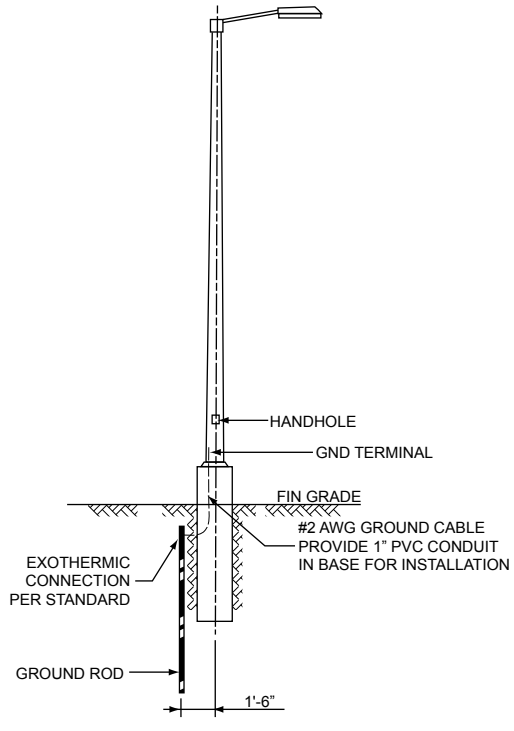
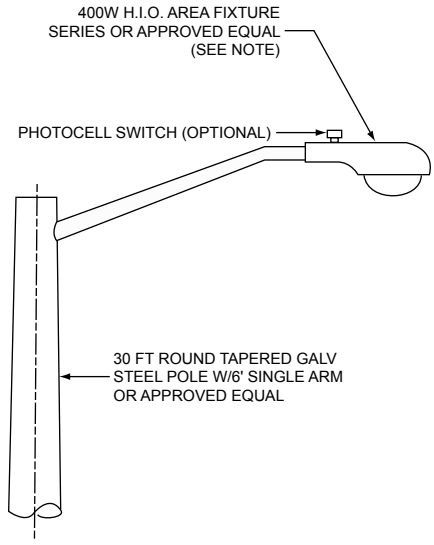
CARLSBAD, CALIFORNIA



POLE MOUNTED LUMINAIRE ASSEMBLY AT ROADWAY



POLE MOUNTED LUMINAIRE ASSEMBLY AT ROADWAY



NOTE: REFER TO THE FIXTURE SCHEDULE FOR THE FIXTURE TYPE DESIGNATED ON PLAN DWG

DETAIL. 30 FT POLE MOUNTED FIXTURE N.T.S.

FIGURE DR110-2
TYPICAL ELEVATIONS - LIGHT POLES AND FIXTURES

CARLSBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

Existing View from Calsbad Boulevard at the Encina Power Station outfall

Visual Simulation of Proposed Project

FIGURE DR111-1
ENCINA POWER STATION OUTFALL
CARLSBAD BOULEVARD
EXISTING VIEW AND VISUAL SIMULATION

CARSLBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

ENVIRONMENTAL VISION

CH2MHILL

ATTACHMENT DR107-1

Comprehensive Landscape Plan

Carlsbad Energy Center Project

Conceptual Landscape Plan

Prepared by

ENVIRONMENTAL VISION

With

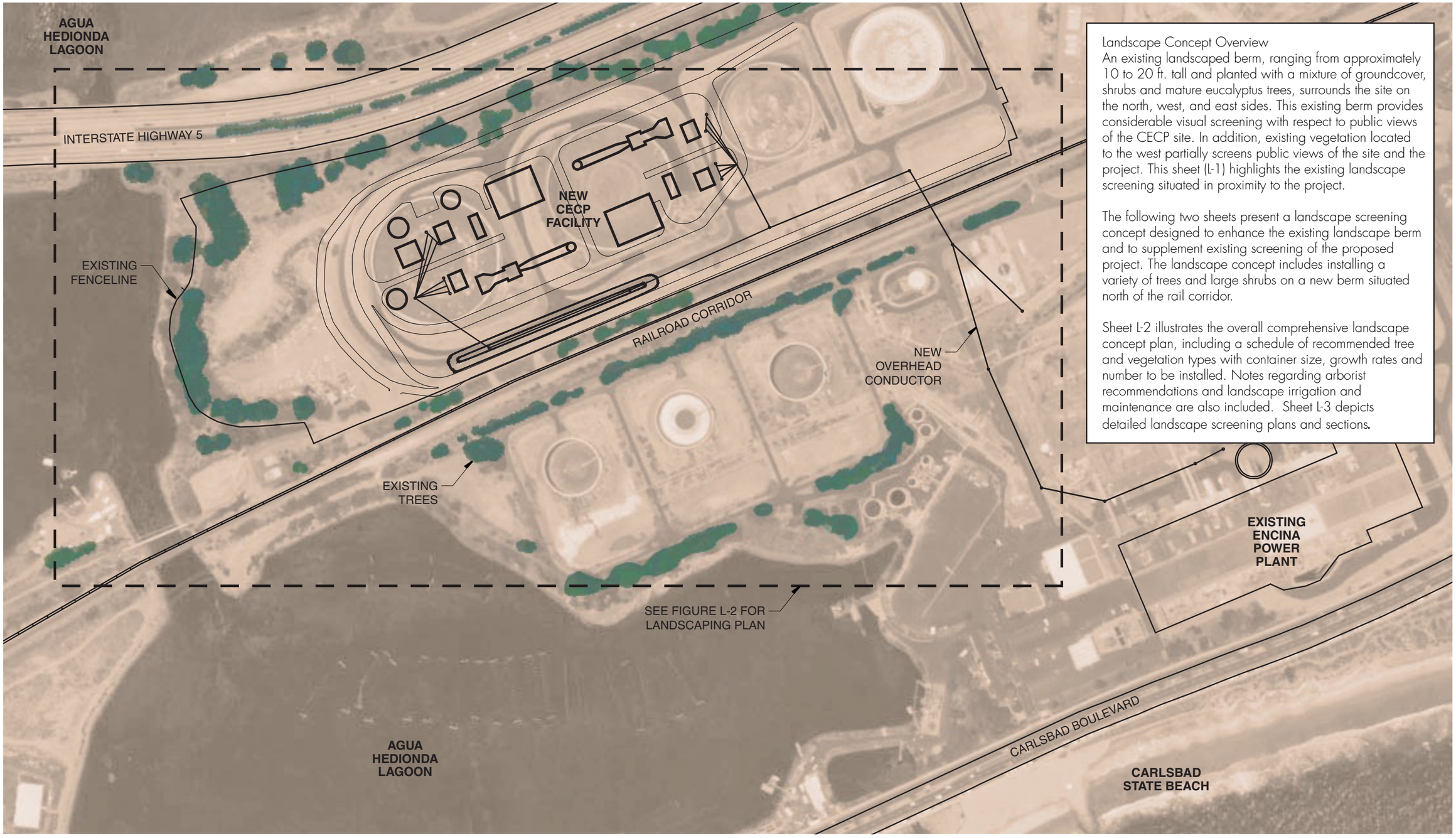
Carlsbad Energy Center LLC

CH2MHILL

DUDEK

March 2008

ATTACHMENT DR107



Landscape Concept Overview
An existing landscaped berm, ranging from approximately 10 to 20 ft. tall and planted with a mixture of groundcover, shrubs and mature eucalyptus trees, surrounds the site on the north, west, and east sides. This existing berm provides considerable visual screening with respect to public views of the CECP site. In addition, existing vegetation located to the west partially screens public views of the site and the project. This sheet (L-1) highlights the existing landscape screening situated in proximity to the project.

The following two sheets present a landscape screening concept designed to enhance the existing landscape berm and to supplement existing screening of the proposed project. The landscape concept includes installing a variety of trees and large shrubs on a new berm situated north of the rail corridor.

Sheet L-2 illustrates the overall comprehensive landscape concept plan, including a schedule of recommended tree and vegetation types with container size, growth rates and number to be installed. Notes regarding arborist recommendations and landscape irrigation and maintenance are also included. Sheet L-3 depicts detailed landscape screening plans and sections.

MAP SOURCE: USGS, 2005

0 120 240 feet

FIGURE DR107a-1
SHEET L-1
EXISTING LANDSCAPE OVERVIEW
CARLSBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

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NOTES:

1. Proposed landscape layout is conceptual and incorporates a certified arborist's assessment of the health and condition of existing trees (Dudek, December 2007 and March 2008). Based upon the arborist's recommendation some tree removal will be appropriate.
2. Final landscape layout shall be determined in conjunction survey data showing locations of existing trees and large shrubs.
3. Smaller trees and shrubs shall be planted below overhead conductors to allow for clearance. All planting shall be consistent with operational requirements for landscaping in proximity to electric transmission facilities.
4. Trees shall not be planted directly over or within 10 feet of underground pipelines. Locations of existing/proposed underground pipelines are approximate and should be verified prior to final landscape design.
5. Landscape contractor shall design and install irrigation system using reclaimed or other non-potable water source. System to be operated by a timer or moisture-sensing device. Contractor will coordinate with other work as required to provide power to irrigation controller. Exact location of controller device and water line connections to be approved by engineer prior to installation. Irrigation system will be operational for a minimum two-year period while new plant material becomes established.
6. Owner will retain a licensed landscape contractor to provide periodic maintenance including removal and replacement of dead plant material, upkeep of irrigation system, and periodic evaluation of site landscaping to determine additional landscaping and maintenance needs.

PLANT PALETTE LEGEND

SYMBOL	TYPE OF PLANT	APPROXIMATE QUANTITY	SUGGESTED SPECIES	CONTAINER SIZE/ PLANTED HEIGHT	GROWTH RATE	APPROXIMATE MATURE HEIGHT/SPREAD
	Broad leaf evergreen or coniferous evergreen tree	35-40	Eucalyptus camaldulensis	15 Gallon/6 Feet	>3'/YR	60'-80'/20'-40'
			Pinus canariensis*	15 Gallon/6 Feet	3'/YR	60'-90'/30'-40'
			or			
			Eucalyptus lehmannii	15 Gallon/6 Feet	2'-3'/YR	25'/10'-20'
	Small trees or large evergreen shrubs	60-70	Ceanothus spp.	15 Gallon/3 Feet	2'-3'/YR	10'-25'/10'-15'
			Heteromeles arbutifolia	15 Gallon/3 Feet	2'-3'/YR	6'-20'/6'-15'
			Rhus lancea	15 Gallon/3 Feet	2'/YR	25'/15'-20'
			or			
			Quercus berberidifolia	15 Gallon/3 Feet	1'-2'/YR	20'/10'-15'

* Tree selected from Carlsbad Community Forest Management Plan, April 2002.

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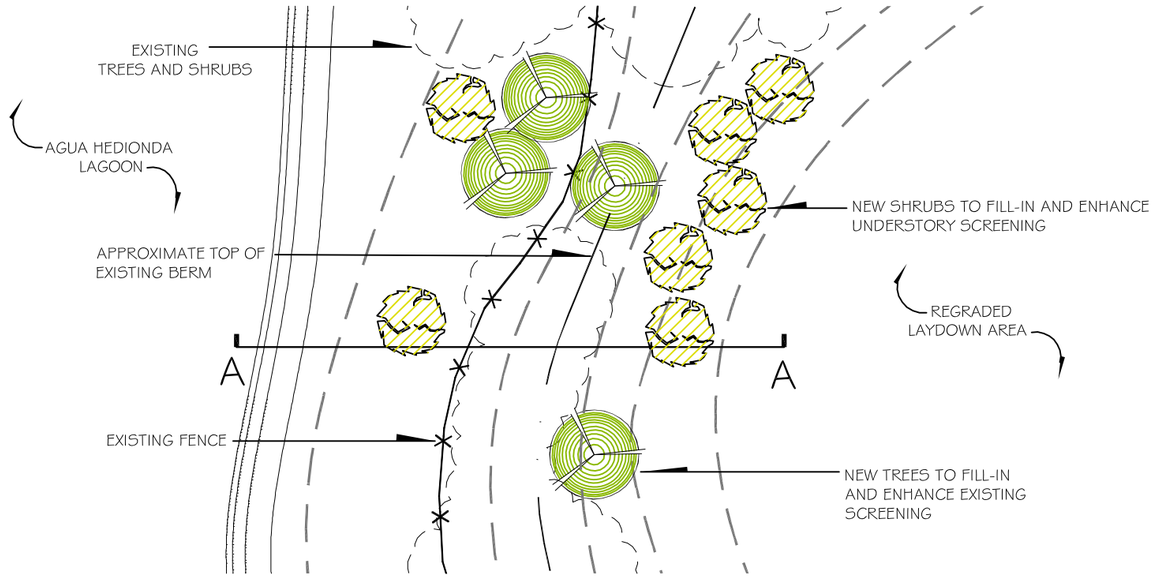
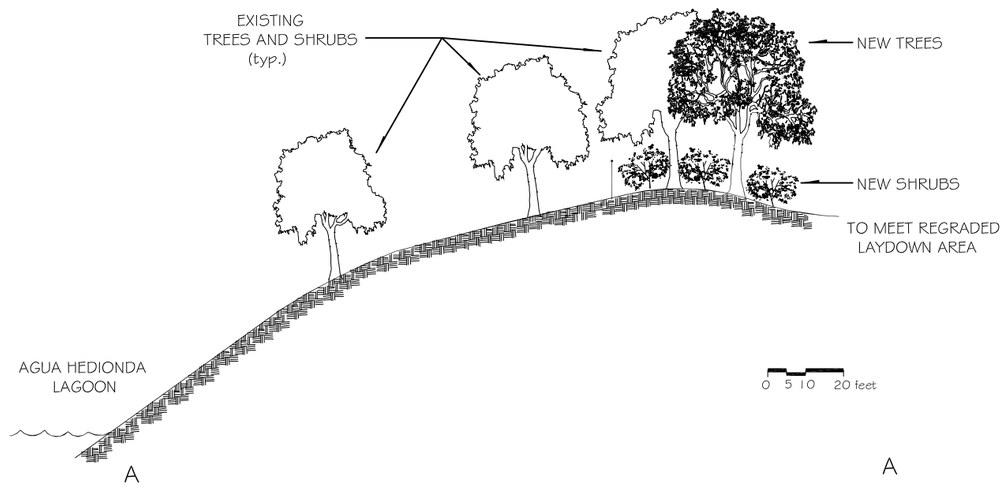
FIGURE DR107b-1
SHEET L-2
CONCEPTUAL LANDSCAPE PLAN
CARLSBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

CH2M HILL



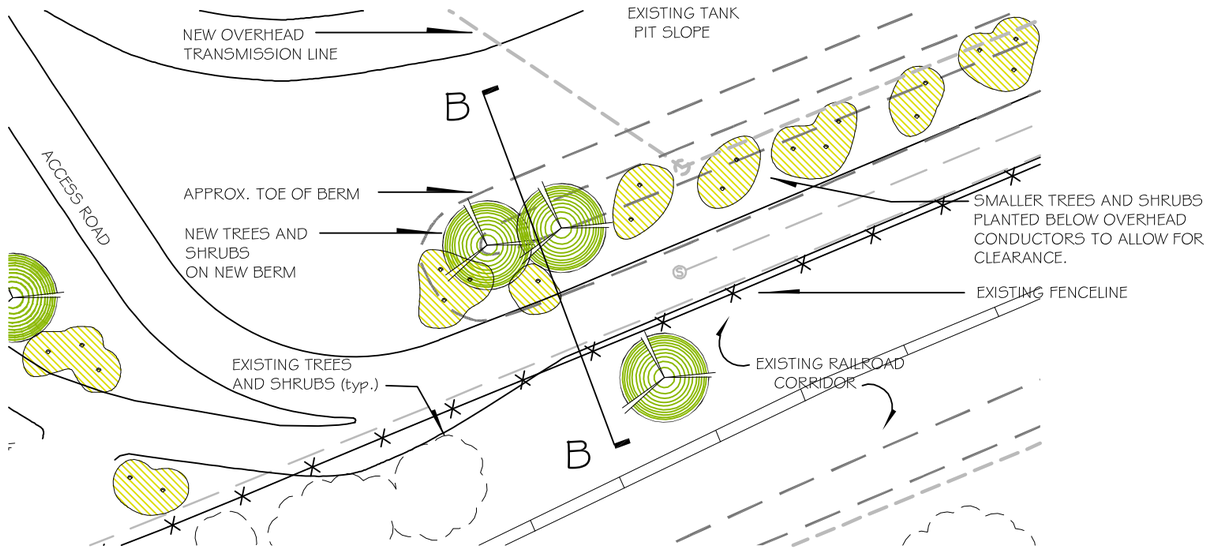
1 L-3 PLAN DETAIL A-A NORTHERN BERM

1"=60'-0"



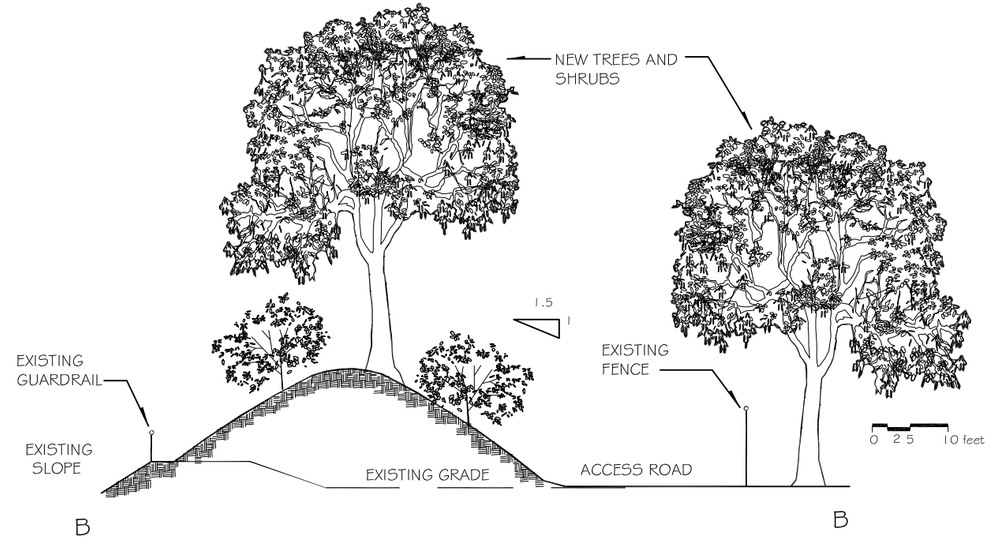
2 L-3 SECTION A-A NORTHERN BERM

1"=40'-0"



3 L-3 PLAN DETAIL B-B WESTERN BERM

1"=60'-0"



4 L-3 SECTION B-B WESTERN BERM

1"=20'-0"

FIGURE DR107c-1
SHEET L-3
CONCEPTUAL LANDSCAPE SCREENING DETAILS
CARLSBAD ENERGY CENTER PROJECT
CARLSBAD, CALIFORNIA

Waste Management (112)

Background

In responding to Data Request #73, applicant provided staff with copies of the Phase II: Environmental Site Assessment of the Encina Power Station (EPS) by SDG&E.

The AFC states that removal of two existing fuel tanks are a part of the Encina facility's ongoing operations and maintenance activity and are not part of the proposed project. However, the area underneath these fuel tanks will be used for proposed project structures and activities. The city has stated its belief that tank demolition would be under the Commission's jurisdiction. Since the area is already identified as a Historical Recognized Environmental Condition (HREC), the environmental investigation of the site after demolition, and completion of any necessary remedial action, should be done well in advance of any project construction to ensure that any possible contamination is identified and mitigated to a level of insignificance. The San Diego Regional Water Quality Control Board (SDRWQCB) is the Lead Agency for the Phase II Environmental Site Assessment and all necessary remedial activities and works with the Department of Toxic Substances Control (DTSC) as a Responsible Agency. Investigation and remediation of hazardous waste during the construction phase of a project should only be done as a contingency measure, when previously unknown contamination is encountered during the normal construction activities.

Data Request

112 Given the existing documented level of contamination near Tank 7 detailed in Phase II of the Environmental Site Assessment (Table 6-1), and the city's position on permit tank demolition on the EPS property (meaning the permit must be stipulated within the Energy Commission assessment), please provide a schedule of the applicant's plans for:

a. tank demolition;

b. environmental investigation after demolition;

c. completion of soil remediation to levels of insignificance; and removal of all contamination though a plan that includes staff names and contacts at both SDRWQCB and DTSC.

d. removal of all contamination though a plan that includes staff names and contacts at both SDRWQCB and DTSC.

Response:

The City of Carlsbad has indicated that the demolition of existing surplus aboveground fuel oil tanks should be included within the Energy Commission's assessment. It has been the

intent of Cabrillo Power I LLC ("Cabrillo"), the owner of the Encina Power Station, to remove surplus aboveground fuel oil tanks irrespective of the proposed repowering project; and thus, permits through the City of Carlsbad and the California Coastal Commission were sought for the removal of such tanks. Cabrillo entered the San Diego County Department of Environmental Health's (DEH) Voluntary Assistance Program (VAP), whereby DEH is designated as the local oversight agency for aboveground tank closure through agreements with the Department of Toxic Substances Control (DTSC) and the San Diego Regional Water Quality Control Board (SDRWQCB). DEH is therefore the responsible agency for approval of a post-demolition soil corrective action plan (CAP) and confirmation sampling plan, implementation of the CAP and confirmation sampling plan, and closure reporting. DEH would issue a closure letter demonstrating satisfactory implementation of the CAP and associated clean-up objectives. Tanks 1, 3, 5, 6 and 7 are surplus. Tanks 2 and 4 are active tanks used at Encina Power Station.

In cooperation with the City's request, CECP agrees to incorporate the removal of Tank 5, 6 and 7 into the Energy Commission's assessment. These tanks and their respective basins are within the footprint of the proposed plant. CECP will continue participation in DEH's VAP and will seek DEH approval of the post-demolition CAP and post-remediation closure report. These reports and the respective approvals will be forwarded to the CEC. The projected schedule for the removal of Tanks 5 – 7 and the associated investigation and remediation milestones are outlined below:

a) Tank Demolition – Start approximately 30 days after the receipt of the CEC Permit for the CECP. During the initial 30 days following the permit issuance, written approval for tank demolition, soil corrective action plan, and post-remediation confirmation sampling will be received. Tank demolition mobilization will also be conducted. Removal of Tanks 5, 6 and 7 should be completed in 90 days, or approximately 120 days after receipt of CEC Permit. For project timeliness, demolition of the three tanks will occur concurrently.

b) Environmental Investigation After Demolition – Environmental investigations after demolition are anticipated to be completed 30 days after the last tank removal, or 150 days after receipt of the CEC Permit. These activities will start immediately following the removal of each respective tank.

   Oil was typically applied to sandy underlying base as corrosion inhibitor. Underlying soil beneath Tank 5, 6 and 7 suspected of containing oil, as well as residual contamination in Tank 7 basin that was identified in the Phase II Environmental Site Assessment will be removed. Soil remediation, post-remediation confirmation sampling, and reporting will be conducted in accordance with DEH and CEC approved plans as described above. These activities should take approximately 30 days per tank and will be conducted concurrently as each tank is removed.

   A VAP application (Attachment DR112-1) and associated fees were filed November 27, 2007. A follow-up meeting with DEH attended by CECP and CECP's consultant was conducted on February 11, 2008. During that meeting, DEH indicated that the proper course of action for achieving closure of each tank is (1) CECP submit a CAP indicating the method of soil remediation following tank demolition,

proposed soil clean-up levels, and confirmation sampling methods; (2) implement the CAP and confirmation sampling; and (3) submit closure report.

c) Completion of Soil Remediation to Levels of Insignificance – 30 days after the last tank removal, or 150 days after receipt of the CEC Permit.

d) Removal of all contamination (with Tanks 5, 6 and 7 basins) though a plan that includes staff names and contacts at both SDRWQCB and DTSC – As indicated above, CECP has entered into DEH's VAP. DEH is the designated local oversight agency for the closure of aboveground storage tanks. The DEH lead for the tank closures is Mr. Nasser Sionit.

- Mr. Nasser Sionit
  San Diego County Department of Environmental Health
  Site Assessment and Mitigation Program
  1255 Imperial Avenue, 3rd Floor
  San Diego, CA 92101
  (619) 338-2239

Mr. Sionit has indicated that they will require a CAP that addresses soil remediation and confirmation sampling methodology. DEH and specifically Mr. Sionit has been the lead agency for prior environmental investigations and remedial actions within tank basins at Encina Power Station. Mr. Sionit has granted closure for prior tank basin remedial actions, aside from suspected oil underlying the respective aboveground fuel oil tanks.

Tanks 1 and 2 basins have been identified as laydown area for the CECP. The footprints of the respective tanks are not needed for laydown area. Rather the perimeter of the respective tanks may be utilized for laydown. These basins were remediated to the approval of the DEH, who has delegated authority as the local oversight agency for tank closures, environmental investigations, and remedial action. Closure documentation was received from DEH in 2003. Therefore no further activities are proposed for Tank Basins 1 and 2. These basins are ready for use for laydown purposes for the CECP.

ATTACHMENT DR112-1

VAP Application

CHECK #94192

FOR OFFICE USE:
Date Received 11-27-07
Submittal Fee Paid $ 2320.00
Establishment # H13941-004

RECEIVED
NOV 27 2007
ENVIRONMENTAL HEALTH

P.O. BOX 129261
SAN DIEGO, CA 92112-9261
ATTN: NASSER SIONIT
(619) 338-2239
(619) 338-2315 (FAX)
WEB SITE: www.co.san-diego.ca.us/deh/lwq/sam

COUNTY OF SAN DIEGO
DEPARTMENT OF ENVIRONMENTAL HEALTH

no RPF

VOLUNTARY ASSISTANCE PROGRAM
APPLICATION FOR ASSISTANCE

(PLEASE READ BOTH PAGES OF THIS APPLICATION PRIOR TO COMPLETION)

A. Site Name Encina Power Station Assessors Parcel Number 210-010-29

Site Address 4600 Carlsbad Blvd., Carlsbad, CA 92008
Street City State Zip Code

B. Property Owner Cabrillo Power I LLC

Mailing Address 4600 Carlsbad Blvd., Carlsbad, CA 92008
Street City State Zip Code

Contact Person David Lloyd Telephone (760) 710-2147 FAX (760) 710-2158

C. Application Submitted By:

Contact Person Bruce Furbush Telephone (760) 710-2143 FAX (760) 710-2158

Company Name NRG Energy, Inc.

Mailing Address 1817 Aston Avenue, #104, Carlsbad, CA 92008
Street City State Zip Code

Note: Applicant is responsible for payment to the County. Invoices will be sent to the applicant at this address unless other arrangements are made.

D. Brief Project Description See Attached

Type of Assistance Requested See Attached

I accept the application requirements and project review conditions listed on Page 2 of 2 and I agree to pay all costs associated with DEH staff time and services within 30 days of receiving an invoice.

Bruce Furbush
Original Signature of Applicant

BRUCE FURBUSH
Printed Name

11/26/2007
Date

COUNTY OF SAN DIEGO

DEPARTMENT OF ENVIRONMENTAL HEALTH
1255 Imperial Avenue, 3rd Floor
San Diego, CA 92101
(619)338-2222

RECEIPT NUMBER: **07-0465259**
Cashier: **EGARCIA**

APN: 210-010-43-00
DATE ISSUED: 12-DEC-2007
PERMIT: 6SAM H13941
SCOPE:
SITE ADDRESS: 4600 CARLSBAD BL
SUBDIVISION:
CITY: Carlsbad, CA 92008-4301

PARCEL OWNER: CABRILLO POWER I L L C
ADDRESS: STATE ASSESSED
CITY/STATE/ZIP: , 00000

PERMIT OWNER:
ADDRESS:
CITY/STATE/ZIP:

Fees Calculated 12 Months Back

Date	Fee Code	Description	Paid to Date	This Receipt	Balance Due
12-DEC-2007	6LVAP--EHO	VOLUNTARY ASSISTANCE PROGRAM INITIAL FEE	$0.00	$230.00	$0.00
		Totals:		$230.00	$0.00

Payment Code	Description	Amount
CHECK	94192	$230.00

Tendered:	$230.00
Change:	$0.00
Balance Due:	$0.00

Brief Project Description:

The Encina Power Station is a steam electric power generating station that began operation in 1954. The station consists of 5 steam turbine generators and 1 gas turbine unit, various ancillary power generation and distribution equipment, and seven above ground fuel oil storage tanks. The project objective is the demolition of existing surplus fuel oil Tanks 1, 3, 5, 6, and 7 associated conveyance piping and other appurtenances, and the remediation and restoration of subsurface soils in the subject tank areas in the Encina Power Station Tank Farm. (At this time, only tanks 5, 6, and 7 will be removed.) Tanks 1-7 were constructed from the 1950's to the 1970's to store No. 6 fuel oil used for electric power generation. Until 1984, the power plant was primarily fueled by Bunker C or No. 6 fuel oil. Since 1984, the power plant has been the primarily fueled by natural gas. Diesel oil is also present on-site and used for displacing the residual oil in pipelines (to prevent the residual oil from hardening in pipelines and valves as it cools) and as secondary fuel for the gas turbine facility. The tanks are located within impoundment basins and separated by concrete-coated or riprap earthen berms.

Soil and/or groundwater remediation may be required for potential contamination underneath, or adjacent to, the demolished fuel oil storage tanks. It is reported that No. 2 oil was placed underneath the storage tanks during the original construction as a corrosion prevention technique and therefore such oil is expected to require removal and appropriate handling. Remediation of portions of the containment areas including the berms around the tanks may also be required. Characterization of soil will occur when tank demolition is complete and necessary remediation will be performed pursuant to the requirements of the San Diego County Department of Environmental Health.

Type of Assistance Requested:

The remediation of subsurface soil investigation and remediation and restoration will be accomplished under the County of San Diego Site Assessment Manual guidance document. Because the project will require remediation Cabrillo Power I LLC will request "closure" from the County for the areas where restoration is accomplished. Cabrillo Power I LLC will submit all applicable existing environmental documents for review, Remedial Site Assessment Work Plan, Site Assessment Reports, Remedial Action Work Plans, Soil Remediation Report, and Health and Safety Plans to the DEH for review and concurrence.

The Encina Power Station, formerly called Cabrillo Power, has the following "H" number site assessment and remediation history: (The site was formerly called Encina Power Station owned & operated by SDG&E until 1998. Cabrillo Power I is the entity that acquired the site).

H13941-001 CABRILLO POWER DEH/SAM V S 09 10/28/1996 1/1/1950

H13941-002 CABRILLO POWER DEH/SAM V S 09 10/28/1996 10/18/1999

H13941-003 CABRILLO POWER DEH/SAM V S 09 3/18/2005 10/18/1999

Included in this application are the following assessment and remediation documents related to the tank farm area:

Dudek and Associates, Results of Verification Sampling, Bunker "C" Fuel Oil Spill, September 1995

Dudek and Associates, Addendum Site Assessment Cleanup and Results of Verification Sampling, November 1995

Haley and Aldrich, Letter Report for Remediation Area 1, January 2004

Haley and Aldrich, Report on Soil Remediation, Encina Power Plant, April 2004

RBF Consulting, Geology, Soils, Seismicity, and Environmental Assessment EIR Encina A Seawater Desalination Project, March 2006